

# LSTFC RULES COMMITTEE WORK PLAN

**Goal:** Complete codification process by 2022 IOLTA/EAF Application for 2023 funding.

**Process:** (1) Preview subject matter and issues at Rules Committee meeting to gather initial perspectives → (2) Staff and Commissioners draft memo with recommendations → (3) Memo shared with LAAC for community feedback → (4) Rules Committee have in-depth discussion and approve recommendations (with sufficient time for public/community) → (5) Legal Services Trust Fund Commission approve Committee’s recommendations → (6) Send rules to State Bar Board of Trustees (BOT) for consideration in phases as matters are ready; do not wait until end process to send all at once → (7) BOT circulate 45 day formal public comment period → (8) BOT vote to approve rule change (note, BOT may need to recirculate for public comment if there are substantive changes)

RULES COMMITTEE MEETING DATE	SUBJECT MATTER	ITEMS TO COVER/EXAMPLES/INCONSISTENCIES	EXISTING RULE OR GUIDELINE?	RECOMMENDATION	STAFF LEAD	COMMISSIONERS
January 2020: Approve	(1) Audit & In-kind donated Services	1. Clarify the audit requirement	1. Rule 3.680	1. In-kind donated services, like pro bono, <u>not count</u> toward gross corporate expenditures 2. Financial reviews must be prepared by independent certified public accountants	Christine Holmes	Corey Friedman Kim Savage
March 6, 2020: Preview issue  September 18, 2020: In-depth Discussion	(2a) Define civil legal services	1. Define civil legal services – including advocacy, counseling, policy work, HICAP, social work and related services) 2. What is negligible so not needed for review (ie, signing letters of support)	1. Amend Rule 3.671 rule to specify and define “civil legal services”		Elizabeth Hom	Kim Savage Amin Al-Sarraf
March 6, 2020: Preview issue  September 18, 2020: In-depth Discussion	(2b) Define indigency and how programs can demonstrate indigency, particularly in impact and class action cases	1. Defining indigency and standards to demonstrate indigency (e.g, no specific age for AAA funding based on Statute) 2. Clarify categories of indigency from B&P 6213 (Greg) 3. How to determine client income (E.g. veterans benefits) (Christal)				Christian Schrieber Jim Meeker Banafsheh Akhlaghi

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Timeline Revised 5.18.20**

<p>March 6, 2020: Preview issue</p> <p>October 16, 2020: In-depth Discussion</p>	(3) Primary Purpose	<p>1. Should 75% QE presumption for satisfying primary purpose requirement change?</p> <p>2. Should practice of finding programs between 50% to 75% QE eligible be codified? If yes, what other factors to include?</p> <p>3. Should Commission retain discretion to find eligible by “other means?”</p> <p>We currently don’t look at future budget about QE at 75%; we only look at previous year (e.g., delete the first clause of the future budget in that rule section).</p>	<p>4. Revise rule 3.671a, which directs review of future budget</p> <p>5. LSP Guidelines 2.3.5 commentary</p> <p>SC Guidelines 2.3 Commentary</p>		Doan Nguyen	<p>Judge Seligman</p> <p>Corey Friedman</p> <p>Rich Reinis</p>
<p>October 16, 2020: Preview issue</p> <p>January 2021: In-depth Discussion</p>	(4) Fiscal	<p>1. Out of County Determination (Doan)</p> <p>a. Process or analysis to determine counting work and allocation for multiple counties (currently inconsistent)</p> <p>2. Pass through Funds (Elizabeth)</p> <p>b. Process for analyzing passing through funds and impact on primary purpose of legal services.</p> <p>c. Defining what is qualified expenditures or pass through and impact on primary purpose analysis. (ex. DOJ funding)</p> <p>3. Exchange Funds (Dan)</p> <p>a. When one grantee subgrants to other IOLTA, there is no policy on who counts on QE.</p> <p>b. Inconsistent reporting requirements of who counts the QE.</p> <p>4. Codify how IOLTA formula is calculated (Greg)</p> <p>a. ACS Survey</p> <p>b. Rounding of decimals</p> <p>c. Minimum county amounts</p> <p>5. Carry over, budget, and cost reporting (Frank &amp; Erica)</p> <p>What should be the standards for financial management? Should IRS standards be used? And review of 990s included? Should financial &amp; program performance be integrated? Additional challenges with discretionary multi-year grants?</p> <p>a. Review of current reports. Why quarterly reports? Why have detailed budgets? Why have 25% non-personnel and Administrative cost limits?</p>	<p>1. There is no rule or guideline on how indirect costs are considered for QE.</p> <p>2. There is no rule or guideline on application of out of county work as applied to statewide/impact cases</p>		Doan Nguyen	<p>Zahirah Mann</p> <p>Richard Reinis</p> <p>Erica Connolly</p>

		b. Process and clarity of who approves at what point of time. With current funding distributions does budget variances of 10% or \$1,000/\$10,000 still make sense. In consistent application of 25% director approval. 6. Indirect Cost: should there be a cap? (Dan) 7. Purchase of Real Property and Tangible Property: revise policy, too dense (Erica)				
January 2021: Preview issues  March 2021: In-depth Discussion	(5) Quality Control	1. What should be the standards governance, leadership and administration of organization? 2. What should be the consequences of findings from monitoring visits or other events that raise questions of quality control? 3. Are there ways to streamline some of the processes with other County/State/Federal audits? 4. How to create enforcement tools for the Commission?			Christine Holmes	Zahirah Mann Erin Lewellen Erica Connolly
January 2021: Preview issues  March 2021: In-depth Discussion	(6) Administration	1. What's the process for accountability on late submission or failure to submit documents, and repeated failure to abide by deadlines (under fines and penalties under Rule 3.681)			Erica Carroll	Zahirah Mann Erin Lewellen
March 2021: Preview issues  May 2021: In-depth Discussion	(7) RFP Review Process for Discretionary Grants	1. Process for reviewing applications, especially those that are RFP based like partnership and bank grants. 2. Creation of a scoring rubric based on criteria, understanding there are subjective factors.			Greg Shin	Amin Al-Sarraf Jim Meeker Justice Murray
July 2021: Preview issues  September 2021: In-depth Discussion	(8) Support Centers	1. Defining "significant support service?" (Staff??) 2. How to measure income screening for support centers. Support Centers are currently not required to screen clients for income if referred by QLSP or pro bono attorney. Technically, QLSP could refer all ineligible clients for SC representation (ex. over income and out of CA cases) and SC could use IOLTA/EAF funding (Christal) 3. Revisit definition of statewide support services (Christal)	1. Delete Rule 3.680 which is not consistent with statute 2. With change of eliminated State Bar districts, new Rule on defining statewide services		Christal Bundang	Judge Seligman Corey Friedman Kim Savage

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		4. Delete Rule 3.680(B) and the requirement that support centers have to provide services in two or more of the following ways: consultation, representation, information services, or training. Inconsistent with statute. (Greg) 5. Can SCs charge the QLSP that attend trainings (for food, or rental, no minimum or %) (Greg) 6. Deeming (Christal) <ol style="list-style-type: none"> <li>What are the rules on deeming every 3 years</li> <li>Commission role has the</li> <li>authority if there is a failure to pass</li> <li>Should entire deeming process should be reviewed?</li> </ol>				
September 2021: Preview issues  November 2021: In-depth Discussion	(9) Pro Bono Allocation	1. If the principal means of delivery of legal services 2. There is urban bias on pro bono test 3. Rules to simplify and eliminate urban bias			Elizabeth Hom	
November 2021: Preview issues  January 2022: In-depth Discussion	(10) Law School Clinics	1. What is the definition of an “identifiable law school unit” from Statute. (Dan) 2. Standards of a financial audit which is normally from the entire institution which is not aligned with the statutory requirement (Christine) 3. Clarity on application of indirect costs (Dan)	1. “Identifiable law school unit” from statute should be in a Rule		Dan Passamaneck	
January 2022: Preview issues  March 2022: In-depth Discussion	(11) Other Issues	1. What are the rebuttal factors for AAA and LSC for 6214(a) on the presumption for qualifications 2. What does having a presumption and what factors could rebut or should be conclusive presumption? Currently, we aren’t applying the presumption.			TBD	