

State Bar of California
Legal Services Trust Fund Commission Meeting
Friday, June 26, 2020
12:00 p.m. – 4:00 p.m.
Zoom Meeting and Conference Call

MEETING SUMMARY AND ACTION ITEMS

OPEN SESSION

The meeting was called to order at 12:05 p.m.

I. ROLL CALL

Attendance was confirmed by roll call:

Commission Members

Banafsheh Akhlaghi
J. Eric Isken
Amin Al-Sarraf
Kim Bartleson
Louise Bayles-Fightmaster
Pamela Bennett
William Boschelli
Erica Connolly
Herman L. DeBose
Rebecca Delfino
Corey N. Friedman
Zahirah Mann
James Meeker
Bob Planthold
Richard Reinis
Kim Savage
Christian Schreiber
Christina Vanarelli

Advisors

Judge Lisa R. Jaskol
Justice William J. Murray, Jr.
Judge Brad Seligman

State Bar Staff

Carolina Almarante
Vicky Avila
Erica Carroll
Brady Dewar
Christine Holmes
Elizabeth Hom
Doan Nguyen
Dan Passamaneck
Kim Warmesley

Liaisons

Salena Copeland (LAAC liaison)
Bonnie Hough (Judicial Council liaison)
Chris Iglesias (Board of Trustees liaison)
Debbie Manning (Board of Trustees liaison)
Zach Newman (LAAC liaison)

Quorum was confirmed. The Legal Services Trust Fund Commission Chair Banafsheh Akhlaghi led the meeting.

II. CALL FOR PUBLIC COMMENT

Chair Akhlaghi asked whether any member of the public wished to address the Commission. No member of the public came forward.

III. CONSENT

A. Approval of Meeting Summary and Action Items from May 27, 2020 Meeting

With a request to correct the date on the meeting summary, the Commission approved by roll call vote (Isken moved, Planthold seconded, Al-Sarraf and Bartleson abstained) the Meeting Summary and Action Items from the May 27, 2020 meeting.

Chair Akhlaghi requested that Item VI Business be taken out of order.

IV. UPDATES ON GRANT ADMINISTRATION

A. Update on 2020 Monitoring Visits

Acting Program Manager Doan Nguyen reported that staff is working with Bonnie Hough from the Judicial Council on remote monitoring protocols and will conduct remote visits for the remainder of the year.

B. Update on Bank Grant Committee

Acting Program Manager Nguyen reported that it appears likely that there will be another \$31 million dollars in funding to distribute. A request for proposals will likely be issued this year, and the Bank Grant Committee Chair Kim Savage and staff are planning a meeting for July.

C. Update on Rules Committee

Acting Program Manager Nguyen reported that the Rules Committee will resume its work in September.

D. Update on Equal Access Fund - Homeless Prevention Committee

Acting Program Manager Nguyen reported that staff requested an extension on the spend down of this funding stream beyond June 2021. The Department of Finance recommended making the request next year. The EAF Homeless Prevention Committee will meet next month.

V. LIAISON REPORTS

A. LSTFC Related Updates from the Board of Trustees

Trustee Manning reported that the new State Bar Executive Director search was underway and that interviews would be conducted shortly with an announcement likely by the end of July.

B. LSTFC Related Updates from Judicial Council

Liaison Bonnie Hough reported that it appears that the Equal Access Fund would not be cut from the Governor's budget and that she is hopeful that funds derived from filing fees would remain steady with projections. The Judicial Council is working on a cost benefit analysis of Self-Help Centers, and she will send a short description of the study to the Commission. Additionally, there will be an additional \$60 million in funds for dependency matters due to a change in the federal government's interpretation of funding in juvenile dependency matters.

C. LSTFC Related Updates from Legal Aid Association of California

Liaison Salena Copeland reported that Legal Aid Day in Sacramento took place on March 8. Approximately 30-40 legal aid attorneys and advocates were able to talk to legislative staff about how COVID-19 has impacted low income Californians. LAAC is also working on a constituent services partnership with the California Access to Justice Commission. It is a two part project to train constituent services in both the Assembly and Senate district offices on how to look for services in appropriate area, and to train intake staff at legal aid organizations on intake procedures when they get a warm hand off or referral from constituent services. One of the goals is to ensure that constituents are not retraumatized during the referral process.

LAAC is also focused on wellness in legal aid and hosted a Wellness Summit with panelists from the Judicial Council and legal aid organizations. There were discussions on vicarious trauma, stress, and advocates in crisis helping clients in crisis. These are programs that LAAC will repeat throughout the summer.

Ms. Copeland also highlighted LAAC's Recruitment and Retention report, which was published in February 2020.

VI. BUSINESS

A. Bagley-Keene Open Meeting Act Training

Brady Dewar from the Office of General Counsel provided a training on the Bagley-Keene Open Meeting Act, and highlighted its purpose, exceptions related to the COVID-19 pandemic, and the impact of violations. The Board of Trustees and any formally created committees of the Board that exercises authority like the Commission and its Committees are subject to Bagley-Keene requirements, including notice requirements and access to meetings for the public. Mr. Dewar also cautioned Commissioners from engaging in side conversations because it could be interpreted as a serial meeting and a violation of the Act. He recommended that Commissioners include staff in all communications, if possible.

Mr. Dewar also reviewed requirements of the California Public Records Act (CPRA.) Any documents generated that are part of the work for Commission or its Committees, including

email about Commission or Committee business, notes, and other correspondence are public records under CPRA, and may be subject to disclosure if State Bar receives a CPRA request.

B. Approval of 2020 and 2021 IOLTA Distribution and Recommendation to Board of Trustees

Acting Program Manager Doan Nguyen, Program Supervisor Carolina Almarante and Senior Program Analyst Erica Carroll presented on the 2020 and 2021 IOLTA distribution, which included a review of the reserve policy and an update on staff's IOLTA revenue projections. The reserve policy approved in 2006 allows for a target 30%-75% reserve in a declining income environment. Staff highlighted that the projections and recommendations relied the 30% target for reserve, but the Commission has flexibility to go up to 75%.

Program Supervisor Almarante also reviewed the IOLTA revenue projections and impact of changes to the Federal Fund Rate. Based on actual bank remittances from January to April, staff's projections were updated from a projection \$14.96 million in May to a \$20.02 million revenue projection for 2020.

Staff also provided information on other potential funding streams. There would likely be no reduction in EAF funding as previously reported. There may also be an additional \$31 million in funding through the national foreclosure settlement, specifically for homeowners, former homeowners, or renters in housing-related matters.

Senior Program Analyst Erica Carroll reviewed staff's recommendations regarding the 2021 distribution which is based on maintaining a 30% reserve.

The Commission discussed the impact of the distribution recommendation on the reserve fund and the relationship between the reserve and administrative overhead and fixed expenses. Commissioner Reinis asked whether the Commission had ever experienced inadequate funds in the reserve that led to an impact on the grant distribution. Interim Executive Director Donna Hershkowitz reported that in some lean years, the State Bar was able to provide some funding to offset the lack of reserve funds, but assumes that administration costs will be paid out of IOLTA funding as allowed by statute. Executive Director Hershkowitz noted that the ability for the State Bar to fund those costs in the current environment is limited due to the impact of COVID-19.

There was further discussion regarding potential changes to the 2020 distribution and the carryover policy. Commissioners raised the issue of modest cuts to preserve funding for future years, to be responsive to the impact of the pandemic, and to ensure equitable distribution of

resources across the state. Commissioners emphasized the obligation to fund organizations so that services would continue. Commissioners also agreed that further discussion of the reserve policy during the codification process was needed.

Liaison Copeland reported that grantees are facing a lot of uncertainty and encouraged the Commission to allow flexibility in grant funding because many grantees were able to secure funding through Paycheck Protection Program (PPP) loans. Additionally Legal Services Corporation (LSC) funded organizations received additional funding through the CARES Act and may receive additional funding if the HEROES Act passes. Some organizations have also been able to save funds because of the FMLA benefits.

The Commission approved by roll call vote (Isken moved, Al-Sarraf seconded)) the following approach to carryover requests and budget modifications:

- Maintain a flexible and generous approach to carryover requests for 2020 grant funds, in particular by allowing larger amounts to be carried over and by permitting spenddown over all of 2021; and,
- Maintain a flexible and generous approach to budget revision requests, including permitting deviations from the 75% program/25% program/administration allocation

The Commission approved by roll call vote (Isken moved, Friedman seconded; Meeker, Reinis, Vanarelli opposed; Mann abstained) the following resolution:

In light of the unforeseen economic impact of COVID-19 and the attendant drop in interest rates affecting the revenue generated by the Interest on Lawyers' Trust Accounts (IOLTA) funds, the Legal Services Trust Fund Commission recommends that the Board of Trustees maintain the 2020 IOLTA distribution at \$55,294,144, leaving a projected reserve of \$19,684,821, and further recommends approval of the 2021 IOLTA distribution in the amount of \$23,546,275, which would leave a projected reserve of \$8,170,928 at the end of 2021.

If changes to the Equal Access Fund or other non-IOLTA funding sources occur, impacting IOLTA-funded grantees, then the Commission recommends that the Board of Trustees delegate authority to the Commission to determine whether increases or decreases to the 2020 and/or 2021 IOLTA distributions are appropriate.

C. Approval of Recommendation from Partnership Grants Committee for 2021 Funding

Partnership Grants Chair Christina Vanarelli reported that the Committee met earlier in the day to discuss the 2021 grant applications, and decided to postpone advancing recommendations to the Commission to allow additional time for staff to follow up with applicants to determine the impact of COVID-19 on their projects and applications. The Partnership Grants Committee

will meet in July and anticipates bringing funding recommendations to the Committee at the August 14 meeting.

The Partnership Grant Committee also discussed the Partnership Grant carryover policy and approved a recommendation to the Commission regarding treatment of 2020 Partnership Grant carryover requests.

The Commission approved by roll call vote (Planthold moved, Bayles-Fightmaster seconded) the following approach to 2020 Partnership Grants Carryover requests:

- To consider request from any grantee in any amount
- To exercise flexibility in reviewing requests on case by case basis
- To permit spenddown over a full year
- To require the funds be spent on providing the same services at the same location

D. Discuss and Approve Legal Aid Society of San Bernardino's Status Report for 2020 Funding

Acting Program Manager Nguyen provided an overview of the status of Legal Aid Society of San Bernardino (LASSB). LASSB is required to provide status reports before the next quarter's funding is released. The most recent progress report was received last week, and while it lacked specificity, there is progress in addressing the Commission's concerns. Mr. Dewar suggested that because of the timing of Commission meetings, the Commission should consider delegating authority to evaluate LASSB's next progress report and to determine whether to approve release of fourth quarter funding.

The Commission approved by roll call vote (Bartleson moved, Bennett seconded; Boschelli abstained) the motion to approve issuance of the third quarter payment to Legal Aid Society of San Bernardino, and to delegate authority to approve release of the fourth quarter payment to Commissioners Isken, Meeker, and Reinis.

The Commission adjourned to closed session at 3:16 p.m.

The Commission returned to open session at 3:27 p.m. Acting Program Manager Nguyen called roll and a quorum was established.

Chair Akhlaghi reported that the Commission approved by roll call vote the Closed Session Meeting Summary and Action Items from March 27, 2020.

There being no other business, the meeting adjourned at 3:29 p.m.