

**Meeting of the Eligibility and Budget Review Committee
of the Legal Services Trust Fund Commission**

Meeting Summary and Action Items

Tuesday, July 28, 2020

9:00 a.m. – 1:00 p.m.

Zoom Conference

OPEN SESSION

Chair Eric Isken called the meeting to order at 9:05 a.m.

I. ROLL CALL

Roll was taken and quorum was established. All members were present on Zoom or by phone.

Commission Members

Chair Eric Isken
Banafsheh Akhlaghi
Louise Bayles-Fightmaster
Pamela Bennett
Erica Connolly
Herman DeBose
Corey Friedman
Zahirah Mann
James Meeker
Debra Meyers
Bob Planthold
Kim Savage

Liaison

Salena Copeland (LAAC)
Bonnie Hough (Judicial Council)

Public

KellyAnn Romanych (VLI)
Antoinette Balta (VLI)
Ken Babcock (PLC)
Carrie Holmes (Harriett Buhai Center)

State Bar Staff

Vicky Avila
Christal Bundang
Erica Carroll
Brady Dewar
Elizabeth Hom
Doan Nguyen
Greg Shin

II. CALL FOR PUBLIC COMMENTS

The Chair invited members of the public to comment on any items on the agenda.

KellyAnn Romanych made a public comment regarding Veterans Legal Institute's (VLI) application for pro bono allocation under Test C. Ms. Romanych thanked the Committee for their consideration, confirmed that VLI's reported numbers are accurate and emphasized that VLI relies on engaging pro bono attorneys as part of its core work.

Ken Babcock from Public Law Center (PLC) also made a public comment regarding PLC's application for pro bono allocation under Test C. He commented that Committee's flexible approach and review of Test C will be representative of next year's application, as the pandemic has had a significant impact on pro bono numbers.

III. CONSENT

A. Approval of Meeting Summary and Action Items from June 26, 2020 Meeting

The Committee approved by unanimous roll call vote the Action Summary from the June 26, 2020 meeting (Planthold moved, Isken seconded).

B. Approval of Meeting Summary and Action Items from July 10, 2020 Meeting

During discussion of this item, a Committee member noted that the date listed for the prior meeting was inaccurate. This was corrected, and the Committee approved by unanimous roll call vote the Action Summary from the July 10, 2020 meeting, as amended (Planthold moved, Bennett seconded).

IV. BUSINESS

A. Update on Senior Citizens Legal Services' Mid-Year Check-In

Senior Program Analyst Greg Shin provided an update regarding Senior Citizens Legal Services (SCLS). While scheduling SCLS's mid-year status meeting, a requirement from their January 13 Eligibility Review Conference (ERC), Shin was informed that Creighton Mendivil had resigned as Executive Director in March but was going to be staying through SCLS's transition.

On July 15, the State Bar had its mid-year status review meeting with SCLS, attended by SCLS representatives Mr. Mendivil and Robert Tarren, Board President; Committee members Kim Savage and Erica Connolly; and State Bar staff members Doan Nguyen, Greg Shin and Dan Passamaneck. The following updates were provided:

- Following the ERC, SCLS's Board mandated monthly meetings between Mr. Tarren and Mr. Mendivil. However, during the mid-year check-in, it was apparent that this was not occurring on a monthly basis.
- Mr. Tarren also reported that SCLS's Board was going to be forming an Audit & Budget Committee with him and two other board members. However, it was unclear if the committee was meeting on a regular basis, and the State Bar later found out that the two board members named had plans to resign from the board.
- SCLS is in the process of seeking further guidance on fundraising efforts from private and public sources, including reaching out to Legal Aid Association of California. In light of the pandemic, this has been a quite a challenge to make more progress.
- SCLS is focusing on expanding board membership to include members with fundraising and grant experience. However, no formal action has been taken regarding this initiative.
- In response to Mr. Mendivil's resignation, SCLS is looking to elevate two staff members in a co-Executive Director position to ensure continuity.

Staff will be sending a letter SCLS to memorialize these updates. The working group recommends scheduling another follow-up meeting with SCLS in mid-October to check on their progress.

Staff has also confirmed that they will not be elevating any additional issues to the Committee and are recommending that SCLS be found eligible for 2021 IOLTA/EAF funding.

B. Update on Support Center Deeming

Program Coordinator Vicky Avila provided an update regarding 2021 Support Center Deeming. As of the July 28 Committee meeting, the State Bar received 49 out of 77 votes from the QLSPs. According to the votes received so far, Family Violence Law Center, Impact Fund, National Immigration Law Center and Legal Services for Prisoners with Children have been deemed. Staff will be sending reminder emails to the remaining QLSPs to cast their votes.

C. Review and Discuss Pro Bono Eligibility Questions

Acting Program Manager Doan Nguyen provided an overview of pro bono eligibility requirements and confirmed that all QLSPs applying for 2021 pro bono allocation have met the threshold requirement. She also reviewed the requirements under numerical Tests A and B and confirmed that QLSPs who pass either of these tests are considered eligible for the pro bono allocation.

Unlike Tests A and Test B, Test C is not quantitative, and programs must submit a narrative explaining how their principal means of delivering legal services is through the coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons. The standing office practice is to elevate all Test C applications to the Committee, which makes an overall determination regarding pro bono eligibility.

Staff provided a high-level overview of the 11 programs applying for pro bono allocation under Test C, including the programs' history of past pro bono eligibility and any relevant arguments from their narratives. Based on the Test C narratives submitted, staff recommended to approve the pro bono allocation for eight programs; tentatively approve the allocation for one program, pending receipt of its audit to confirm its volunteer numbers; not approve one program; and deferred approval to the Committee for one program. (Staff reported that Disability Rights Legal Center was incorrectly listed as a Test C applicant but had passed one of the numerical tests and thus the Committee would not have to vote on that organization's allocation.)

The Committee also had a substantive discussion regarding VLI. Staff provided an overview of VLI's submitted narrative, noting that VLI was approved for Test C in the 2020 IOLTA/EAF grant year and approved from Test B in the 2019 IOLTA/EAF grant year. Like their 2020 Test C narrative, VLI indicated that they believe that they conservatively report volunteer hours, but would otherwise have passed Test B. Due the nature of the legal services provided, VLI argued that it was difficult to track hours contemporaneously. In addition, VLI stated that veterans law requires specialized knowledge, and accreditation by the Department of Veterans Affairs to handle complex VA benefits cases, which impacts their ability to recruit qualified pro bono attorneys. Staff's determination was inconclusive and deferred its decision to the Committee.

D. Approve Test C Pro Bono Applications

The Committee adopted staff's recommendations to find the following programs eligible for the 2021 IOLTA/EAF pro bono allocation by majority roll call vote: Bet Tzedek Legal Services, Casa Cornelia Law Center, Harriett Buhai Center for Family Law, Inland Empire Latino Lawyers Association, Inc., LACBA Counsel for Justice, Lawyers' Committee for Civil Rights, Legal Aid of Sonoma County, Legal Aid Society of San Bernardino (pending receipt of the audit), Public Law Center; and to find the following program ineligible for pro bono allocation: Legal Aid of Marin (Isken moved, Friedman seconded).

Abstentions: Meeker (Public Law Center), Isken (Bet Tzedek Legal Services), and Bayles-Fightmaster (Legal Aid of Sonoma County).

The Committee approved staff's recommendation by majority roll call vote to find VLI eligible for 2021 IOLTA/EAF pro bono allocation, with the condition that VLI collaborate with staff to improve their reporting and tracking mechanisms (Planthold moved, Isken seconded).

Yes votes (7): Isken, Bayles-Fightmaster, Connolly, DeBose, Meeker, Meyers, Planthold

No votes (4): Bennett, Friedman, Mann, Savage

Abstentions (1): Akhlaghi

E. Review and Discuss Eligibility Issues Related to Audits/Financial Reviews, Applicants' Primary Purpose, Possible Non-Qualifying Work

Nguyen provided an update regarding three programs who have informed staff that they are unable to submit their final audits by the August 1 extension deadline. The Committee discussed Neighborhood Legal Services, who requested an extension until August 31 due to a ransomware attack in their accounting software.

While no vote was required for this agenda item, the Committee had an initial discussion about potentially approving applications using draft audit numbers, whether the Committee had authority to approve extensions beyond the allocation deadline, and concerns about treating existing grantees differently than new grantees.

Staff will report on organizations who did not submit audits by August 1, and any relevant updates regarding the Committee's authority after analyzing existing statute. The Committee will make a decision on whether to grant an additional extension at its August 6 meeting.

F. Discuss Outcome of Eligibility Review Conferences

Committee Member Kim Savage reported on UnCommon Law's ERC, which was held on July 24. The eligibility issues discussed were whether parole process is civil or criminal law, if all services related to parole work are considered qualifying and if UnCommon Law should make further deductions on their application. Although UnCommon Law and Committee

Members had substantive discussion regarding UnCommon Law's scope of work, the working group was unable to make a recommendation regarding eligibility at that time. The working group is awaiting analysis from Office of General Counsel for further guidance and will provide updates and their recommendation at the August 6 meeting.

Committee Member Friedman reported on East Bay Family Defenders' ERC, which was held on July 27. The first eligibility issue raised was whether EBFD should be found eligible for 2021 IOLTA/EAF funding, as they only implemented income screening on July 1, 2020. The second issue was to determine how much of EBFD's social services work is actually tied to legal outcomes or if this work is non-qualifying. According to Friedman, EBFD was able to provide a sufficient explanation as to how non-legal service professionals (social workers and parent advocates) are tied to legal outcomes, but that EBFD proposed an insufficient methodology to report using Dependency Advocacy Center's data. The working group's preliminary recommendation is to find EBFD ineligible for 2021 IOLTA/EAF funding and encourage that they reapply once they have more data regarding income screening. This recommendation will be presented and voted on at the August 6 meeting.

There are four remaining ERCs scheduled before the August 6 Committee meeting, where the Committee will also vote on ERC recommendations and discuss parole and expungement issues. There is a placeholder meeting scheduled for August 14 to address any outstanding eligibility issues before the Legal Services Trust Fund Commission meeting. Commission Member Friedman recommended that staff reach out the Board liaisons regarding the upcoming August 6 meeting, because the issues planned for discussion may have wider implications.

G. Recommend Applicants as Eligible or Ineligible for 2021 IOLTA and EAF funding

No action was taken on this agenda item.

V. ADJOURN

There being no further business before the Commission, the meeting was adjourned at 11:51 a.m.

CLOSED SESSION

None.