

**From:** [Erin Smith](#)  
**To:** [Nguyen, Doan](#)  
**Subject:** Re: Update on Director of Office of Access & Inclusion, Poverty Guidelines, and Homelessness Prevention RFP Due Today  
**Date:** Friday, October 09, 2020 3:55:20 PM

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Hi Doan,

I hope you are doing well! I wanted to write to you about the new poverty guidelines, especially because I know the State Bar is looking at these now/next week in connection with the rules revision process. The memo says that "organizations where the principal means of delivering legal services is through free services of attorneys in private practice without compensation" may use the higher income threshold of the Health & Safety Code. FVAP would qualify if that is the standard because we co-counsel all of our domestic violence appeals with pro bono counsel. This is a point I've made to the Bar several times since we became a Support Center in 2014, but per instructions from the Bar, we have never been able to use that standard. Could we now revisit that?

I do note that the cover email actually provides a different interpretation of who may use this standard, and says it is limited to "programs receiving a pro bono allocation." That is my understanding of the Bar's current interpretation and why FVAP has not been able to use the H&SC standard. I would just point out that these two standards are different, and would encourage the Bar to be consistent in what definition it is using.

But more importantly, as I've expressed over the years, I feel strongly that neither of these standards should be how the Bar is interpreting the word "project" in Business & Professions Code 6213(d). As you know, the statute says: "Indigent person" means a person whose income is (1) 125 percent or less of the current poverty threshold established by the United States Office of Management and Budget, or (2) who is eligible for Supplemental Security Income or free services under the Older Americans Act or Developmentally Disabled Assistance Act. With regard to a **project** that provides free services of attorneys in private practice without compensation, "indigent person" also means a person whose income is 75 percent or less of the maximum levels of income for lower income households as defined in Section 50079.5 of the Health and Safety Code. For the purpose of this subdivision, the income of a person who is disabled shall be determined after deducting the costs of medical and other disability-related special expenses." (emphasis added)

The word "project" in the statute does not need to be interpreted as a "qualified legal services project that receives the State Bar's pro bono allocation." That definition is very limiting, excludes Support Centers, runs counter to the Bar's and the state's public policy and interest in encouraging pro bono services from the private sector, and creates an absurd result where Support Centers use two different income standards depending on whether the QLSP referring us a case receives the State Bar's pro bono allocation or not (which information is not easy for us to find each year). Based on how FVAP provides services -- we always "provide[] free services of attorneys in private practice without compensation," per the statute -- I hope that the Bar is willing to revisit how it has been interpreting the word "project" in the statute as part

of the current rules revision process, and to allow FVAP to use the H&SC indigency level.

I'm happy to discuss this further with you, or present comment at the meeting on the 16th if you think that would be helpful. You may also use this email as my public comment. I'm trying to manage a tight schedule that day, so if you think speaking to the commission would be helpful, please let me know what time that would be.

Thank you for your continued partnership and for being open to hearing feedback from the field.

Best,  
Erin

Erin Smith, Esq. | Executive Director

pronouns: she/her/hers

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On Fri, Oct 9, 2020 at 8:49 AM <[trustfundprogram@calbar.ca.gov](mailto:trustfundprogram@calbar.ca.gov)> wrote:

Dear Program Directors and Advocates,

**Director of the Office of Access & Inclusion (OA&I):** We are pleased to announce that Andrea Fitanides will join the State Bar as the Director of OA&I on October 19. Andrea comes to us from Morgan, Lewis & Bockius, LLP, where she managed the firm's pro bono program for California, Texas, and its European offices. Through this work, Andrea has developed deep relationships with partner legal services organizations in California. Prior to working at Morgan Lewis, Andrea worked at Covington & Burling as their Pro Bono Manager. And before that, she spent nearly five years at Justice & Diversity Center (JDC) as a Supervising Attorney / Pro Bono Manager. We are thrilled that Andrea will be joining the State Bar, and are confident that under her leadership, OA&I will be able to advance more initiatives to help underserved communities throughout California.

**2020 Federal Poverty Guidelines:** Please see attached for updated language on the poverty guidelines that were released earlier this year in March. There are no substantive changes, but we updated the document to provide more clarity on the permissible income thresholds, under Section 50079.5 of the Health and Safety Code, for programs receiving a pro bono allocation. This document will also be posted to SmartSimple's Key Documents and Authorities section on the homepage. If you have any questions, please contact Doan Nguyen at [doan.nguyen@calbar.ca.gov](mailto:doan.nguyen@calbar.ca.gov).

**2021 Homelessness Prevention RFP Application:** Just a friendly reminder, Homelessness Prevention RFP applications are due on SmartSimple **by 5:00 p.m. today Friday, October 9, 2020**. At that time, the funding opportunity will close and applications will no longer be

accepted. It is the applicant's responsibility to ensure timely submission of the application and all application information and attachments. Applications are public records once submitted. If you have any questions, please contact Christine Holmes at [christine.holmes@calbar.ca.gov](mailto:christine.holmes@calbar.ca.gov).

As always, please feel free to contact us with any questions.

Regards,  
Office of Access & Inclusion

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415-538-2252 | [trustfundprogram@calbar.ca.gov](mailto:trustfundprogram@calbar.ca.gov)

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