

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

**Meeting Summary and Action Items**

**Thursday, August 6, 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 (Absent)  
Rebeca Delfino  
Zahirah Mann  
James Meeker  
Debra Meyers  
Bob Planthold  
Kim Savage

**Liaison**

Salena Copeland (LAAC)  
Bonnie Hough (Judicial Council)

**State Bar Staff**

Erica Carroll  
Brady Dewar  
Christine Holmes  
Doan Nguyen

**II. CALL FOR PUBLIC COMMENTS**

Chair Isken invited members of the public to comment on any items on the agenda. There was no public comment made.

**III. BUSINESS**

**A. Update on Support Center Deeming**

For the benefit of the Committee, Chair Isken requested staff to provide a brief explanation about why the State Bar conducts the deeming process for Support Centers. Acting Program Manager, Doan Nguyen stated that the office requires programs in existence on or after January 1, 1981 be deemed of special need by a majority of qualified legal service projects (QLSPs) every three years in order to be eligible for funding. Support Centers established prior to 1981 are presumed to meet the special need requirement and do not require deeming.

The State Bar sends a ballot via Survey Monkey to all QLSPs to vote either “Yes” the Support Center is of special need or “No.” Programs that do not vote are counted as “No” votes. A Support Center is considered deemed and eligible for State Bar funding if it receives affirmative votes from more than half of all QLSPs.

Program Coordinator, Vicky Avila provided an update on the four Support Centers that were deemed this year. Out of the 77 total QLSPs, 62 voted. The remaining 15 QLSPs that did not vote were counted as “No” votes. The vote was reported as follows:

1. Family Violence Appellate Project: 53 affirmative votes
2. Impact Fund: 55 affirmative votes
3. Legal Services for Prisoners with Children: 55 affirmative votes
4. Nation Immigration Law Center: 56 affirmative votes

#### **B. Discuss and Approve Audit/Financial Review Extension Requests**

Senior Program Analyst Erica Carroll stated there was one pending audit issue that was not discussed at the last meeting on July 28. One program, San Luis Obispo Legal Aid Foundation (SLOLAF), submitted a reviewed financial statement though its gross corporate expenditures for 2019 exceeded the \$500,000 threshold to submit this type of review instead of an audit. SLOLAF reported almost half of its expenditures as in-kind donated services, which is the reason it exceeded the threshold. Carroll noted the LSTFC Rules Committee in January 2020 reviewed and approved an amendment to State Bar Rule 3.680(E)(1) to exclude in-kind donated services from the \$500,000 threshold in keeping with office practice. The amendment to the rule will need to go to Commission, the State Bar Board of Trustees and out for public comment before it is finalized. Staff recommended the Committee accept the reviewed financial statement absent a final policy on in-kind donated services.

The Committee approved by unanimous roll call the staff recommendation to accept SLOLAF’s reviewed financial statement (Isken moved, Friedman seconded).

Carroll stated that USC Gould School of Law Immigration Clinic (USCGould) also had a pending audit issue. USCGould submitted an audit for the entire law school without identifying expenditures for the clinical program. Specific expenditures for the clinic program are necessary to compare with to the expenditures reported in its application. The Committee previously extended USCGould’s deadline to August 1 to submit an independently audited schedule of expenses specific to the clinic program. USCGould did not provide any new documentation and did not indicate to staff that it would be able to do so. Staff recommended the Committee find USCGould ineligible for IOLTA grants in 2021.

The Committee approved by unanimous roll call the staff recommendation to find USCGould ineligible for 2021 IOLTA/EAF funding (Planthold moved, Delfino seconded, Isken abstained).

Carroll also reported that three programs failed to submit either an audit or financial review by the extension granted them to August 1. The programs were 1) Family Legal Assistance at CHOC Children's (CHOC); 2) Kids in Need of Defense (KIND); and 3) Neighborhood Legal Services (NLS). The Committee did not provide a further extension for KIND because, as discussed below, the recommendation was to find the program ineligible for 2021 funding, rendering any extension unnecessary. Staff noted that its initial recommendation was to grant an extension until August 31 for both CHOC and NLS; however, CHOC recently notified staff that it may seek out a new certified public accountant to complete the review of its financial statements. Staff and the Committee expressed concern about CHOC's ability to meet an August 31 deadline if it hadn't secured a certified public accountant to complete the review. The Committee discussed the consequences of possibly granting an extension beyond August 31 and decided to make separate motions regarding audit extensions for CHOC and NLS.

For NLS the Committee agreed with the staff recommendation to grant NLS an extension until August 31, 2020 to submit its 2019 audit upon a showing of extraordinary circumstances. Approval of IOLTA and EAF eligibility for grant year 2021 is pending confirmation and review of the final audit. If the audit reveals lower qualified expenditures for 2019 than what was reported in the 2021 IOLTA and EAF application, the grant allocation will be lowered. If the audit reveals higher qualified expenditures for 2019, the grant allocation will not be modified.

The Committee approved by roll call the staff recommendation to grant NLS an extension until August 31, 2020 to submit its 2019 audit (Planthold moved, Delfino seconded, Isken recused).

For CHOC the Committee made a motion to grant CHOC an extension until August 31, 2020 to submit its 2019 financial review, upon a showing of extraordinary circumstances. Approval of IOLTA and EAF eligibility for grant year 2021 is pending confirmation and review of the financial review. If CHOC fails to meet that deadline, the Committee is going to recommend that Family Legal Assistance at CHOC Children's be found ineligible for grant year 2021 funding. If the audit or review reveals lower qualified expenditures for 2019 than what was reported in the 2021 IOLTA and EAF application, grant allocations will be lowered. If the audit reveals higher qualified expenditures for 2019, grant allocations will not be modified.

The Committee approved by unanimous roll call the staff recommendation to grant CHOC an extension until August 31, 2020 to submit its 2019 audit (Isken moved, Planthold seconded).

Carroll provided a recap of the review and approval of Test C pro bono allocation applications from the previous meeting. Legal Aid Society of San Bernardino's (LASSB) pro bono application was tentatively found eligible pending receipt and review of its audit. LASSB was granted an extension to August 1, 2020 to submit its audit. After reviewing the auditor's opinion and findings, staff recommended the Committee find LASSB ineligible for the pro bono allocation for 2021, because the auditors were unable to verify LASSB's volunteer hours for 2019.

The Committee discussed previous issues LASSB had and if there were concerns about funding them for 2021. A working group has been reviewing LASSB's status reports, and the organization is making good progress. The working group requested LASSB's auditor to verify the program's progress and provide the State Bar a report. Brady Dewar from Office of General Counsel noted that LASSB is otherwise eligible for 2021, and the organization cannot be ineligible based solely on quality control concerns.

The Committee approved by unanimous roll call vote the staff recommendation to find LASSB ineligible for a 2021 pro bono allocation (Isken moved, Planthold seconded).

**C. Discuss and Recommend to Legal Services Trust Fund Commission Services Related to Expungement, Parole, Civil Infractions, and Fines and Fees as Eligible or Ineligible for IOLTA and EAF Funding**

Staff sought guidance from the State Bar's Office of General Counsel (OGC) regarding whether parole qualified for IOLTA funding. Acting Program Manager Doan Nguyen stated that, as noted in the memorandum provided to the Committee for this meeting, the State Bar determined that parole work should be treated as civil and therefore qualifies for IOLTA funding. OGC's privileged legal analysis was shared with the Committee separately.

Discussion regarding expungement, civil infractions, and fines and fees will happen later through the codification process.

**D. Discuss Outcome of Eligibility Review Conferences (ERC)**

Working group members reported on the final three ERCs that took place and provided their recommendations. The vote on the recommendations will be held until the next meeting on August 14, 2020 by which time the ERC memoranda from the working groups will be provided.

**Social Justice Collaborative (SJC).** Commissioner Louise Bayles-Fightmaster reported on the ERC with SJC, a new applicant for 2021 funding. During the EJC, the working group confirmed with SJC that it uses the correct income eligibility guidelines and has an appropriate methodology for determining indigency. SJC also clarified that it does not provide non-legal services, rather it refers its clients to other organizations for these services. Following the ERC, the working group provided SJC additional time to submit its methodology for calculating qualified expenditures. SJC provided a reasonable explanation and calculation for determining qualified expenditures. The working group will recommend SJC be found eligible for 2021 at the next Committee meeting.

**Community Lawyers, Inc. (CLI).** Commissioner Zahirah Mann reported on the ERC with CLI. This was the second year CLI has applied for IOLTA/EAF funding. CLI submitted an incomplete application, as it did not provide an independent financial review, even after it was granted an extension until of August 1, 2020 to do so. It also did not demonstrate a sufficient methodology for identifying and deducting non-qualifying work and tracking income eligibility. The working group will recommend CLI be found

ineligible for 2021 funding. While not the basis for its recommendation, the working group also noted governance issues that required action before the organization applies for funding in the future.

**Kids in Need of Defense (KIND).** Commissioner Corey Friedman reported on the ERC with KIND. KIND confirmed it did not intend to change its corporate structure to be incorporated in California, which is a threshold requirement. KIND is a national organization with articles of incorporation filed in the District of Columbia. KIND also did not provide an audit to complete its application, even after receiving an extension until August 1, 2021. The working group also noted that KIND's primary purpose is only 38.9 percent, well below the 75 percent presumed threshold. The working group will recommend KIND be found ineligible for 2021 funding.

Reflecting on the ERCs in general, the Committee discussed possible ways to help potential applicants determine if they are eligible to apply before submitting an application. Staff reported that many programs contact the State Bar before applying. Staff conduct an in-depth discussion with them about the application and funding requirements. The Committee suggested holding a questions-and-answers webinar with potential applicants. Staff have provided a webinar in the past and will work to revise the webinar.

#### **E. Discuss and Recommend to Legal Services Trust Fund Commission Applicants as Eligible or Ineligible for 2021 IOLTA and EAF Funding**

Senior Program Analyst Carroll provided a brief recap of the ERC discussions at the last meeting for Uncommon Law and East Bay Family Defenders.

**UnCommon Law.** In light of the legal analysis that legal services related to parole constitute civil legal services, the working group that participated in the ERC recommended the Committee find UnCommon Law eligible for IOLTA/EAF grant funding for 2021. The working group also recommended UnCommon Law's "wrap-around" social and ancillary services be considered qualifying so long as they are provided in conjunction with, and as a complement to, qualified legal services.

The Committee approved by unanimous roll call the working group's recommendation to find UnCommon Law eligible for 2021 funding. (Isken moved, Connolly seconded).

**East Bay Family Defenders (EBFD).** The working group recommended the Committee find EBFD ineligible for 2021 funding. EBFD did not start income screening until July 1, 2020 and lacked a sufficient methodology to report qualified expenditures. The working group also did not accept EBFD's use of income screening statistics from one county as a proxy for its own income screening in a different county.

The Committee approved by unanimous roll call the working group's recommendation to find East Bay Family Defenders ineligible for 2021 funding. (Friedman moved, Isken seconded).

**Housing Rights Center (HRC).** Commissioner Erica Connolly reported on the ERC for HRC. The working group recommended the Committee find HRC ineligible for 2021 funding because HRC submitted an incomplete application and did not have a sufficient methodology for deducting over-income or non-legal services. Following HRC's ERC, the working group granted additional time for HRC to complete its application, but HRC did not meet this deadline. The working group based their recommendation on the incomplete application but also noted concerns about the likelihood that HRC will have sufficient qualified expenditures once HRC develops the means to adequately track its non-legal services.

The Committee approved by unanimous roll call the working group's recommendation to find Housing Rights Center ineligible for 2021 funding. (Akhlaghi moved, Connelly seconded. Mann abstained).

#### **IV. ADJOURN**

There being no further business before the Committee, the meeting was adjourned at 11:31 a.m.