



The State Bar of California

CLOSING

II.A. Assumption/Question
11-05-21 Scope Meeting
Open Session

WORKING GROUP

DATE: October 29, 2021

TO: Scope Subcommittee, Closing the Justice Gap Working Group

FROM: Rebecca L. Sandefur, Scope Subcommittee Co-Chair

SUBJECT: II.A. Assumptions and Empirical Questions to Test in a Legal Services Regulatory Sandbox

At the October 8 meeting of the Scope subcommittee, members brainstormed empirical questions that could be answered in a sandbox environment. Empirical questions are those that can be answered by observing the world; that is, by facts. Members also raised empirical questions about the impact of sandbox activities on activities outside a sandbox environment and about the efficacy of a sandbox for serving the underserved, relative to other potential activities. Building on this discussion, the full CTJG suggested further questions and lines of inquiry in its meeting on October 18.

This memo summarizes those discussions, and offers some resolutions for discussion and possible action.

Resolutions:

1. Developing an evidence base to inform decisions about legal services regulation policies is a key function of any sandbox project.
2. The CTJG should recommend that funding for any sandbox project include allocation for a rigorous, independent, external evaluation of the Sandbox project and how well it achieves its goals.
3. The CTJG should recommend that any sandbox project consider how to balance the need for data from participating entities and clients with the regulatory burden placed on both by data requirements.

QUESTIONS ABOUT SANDBOX ACTIVITIES:

CONSUMER PROTECTION

- How many consumer complaints against sandbox entities, about what kinds of practices?
- How many malpractice filings against sandbox entities, for what kinds of behavior?
- How many violations of ethical rules by sandbox entities, of what types?
- What services offered by sandbox entities are effective, competent? What are ineffective, not competent?

ACCESS TO JUSTICE

- How much service to currently underserved populations is delivered by sandbox entities?
- How accessible and discoverable are the services offered by sandbox entities?
- What kinds of entities serve the underserved?
- How do sandbox activities affect equity in access to services along the lines of race, gender, disability, and language access?
- What are the substantive outcomes achieved for consumers?
- What kinds of rules are entities asking be waived, and with what impact on consumer protection and access to justice?

QUESTIONS ABOUT THE IMPACT OF A SANDBOX ON ACTIVITIES OUTSIDE OF A SANDBOX

LEGAL PROFESSION AND LEGAL SERVICES MARKET

- Is public esteem for the legal profession affected? How?
- Is the size of the legal profession affected? How?
- Are the types of law/justice issues served by lawyers affected? How?
- Are lawyers' incomes affected? How?

QUESTIONS ABOUT THE RELATIVE EFFICACY OF A SANDBOX

- Would other activities, such as more work on court form simplification and more investment in court-based self-help, be as or more effective than a sandbox in providing service to underserved Californians?