

**LEGAL SERVICES TRUST FUND COMMISSION  
ELIGIBILITY AND BUDGET REVIEW COMMITTEE MEETING**

**Meeting Summary and Action Items**

Thursday, November 4, 2021, 10:00 a.m.–1:00 p.m.

State Bar of California (Conference Call via Zoom)

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**Roll Call**

**Members Present**

Chair Erica Connolly  
Banafsheh Akhlaghi  
Louise Bayles-Fightmaster  
Pamela Bennett  
Catherine Blakemore  
Zahirah Mann  
Jim Meeker  
Bob Planthold

**Public Members**

Amanda Alvarado Ford, La  
Raza Centro Legal  
Kim Kruckel, Child Care Law  
Center  
Gautam Jagannath, Social  
Justice Collaborative  
Joyce Gandelman, Senior  
Advocacy Project  
Lorin Kline, Legal Aid  
Association of California  
Lynne Hiortdahl,  
Neighborhood Legal Services

**Liaisons**

Salena Copeland

**Staff**

Doan Nguyen  
Erica Carroll  
Danielle MacRae

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**Members Absent**

Corey Friedman

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**OPEN SESSION**

Chair Connolly called the meeting to order at 10:00 a.m.

**I. ROLL CALL**

Roll call was taken, and quorum was established.

**II. CALL FOR PUBLIC COMMENT**

Before calling for public comment, committee members briefly discussed how to improve accessibility of comments made in the Zoom chat feature. Visually impaired attendees, attendees using screen readers, and attendees participating by phone are not able to read the chat, so the committee asked that comments made in the chat be read aloud. The committee also asked State Bar staff to include mention of this issue in future announcements at the start of committee and commission meetings.

The chair invited members of the public to comment on any items on the agenda. The following public comments were made:

- Amanda Alvarado Ford, the Executive Director of La Raza Centro Legal, made a public comment regarding the organization's late budget submission. She reported her apologies and noted this was an anomaly for the organization.
- Kim Kruckel, the Executive Director of the Child Care Law Center, made a public comment regarding the organization's late budget submission. She reported her apologies and noted this was anomaly for the organization.
- Gautam Jagannath, the Executive Director of Social Justice Collaborative, made a public comment regarding the organization's late budget submission. He reported his apologies and noted the organization does not receive emails from SmartSimple.
- Joyce Gandelman, the Executive Director of the Senior Advocacy Network, made a public comment regarding the organization's late budget submission. She reported her apologies and noted this was anomaly for the organization.
- Salena Copeland, the Executive Director of the Legal Aid Association of California, noted programs have had many grant deadlines for the State Bar and other funding sources.

### **III. CONSENT**

#### **A. Approval of Meeting Summary and Action Items from August 13, 2021 Meeting**

Chair Erica Connolly noted a typo on page 5, in heading G. The committee asked whether Eviction Defense Collaborative (EDC) pays rental assistance directly to landlords or to tenants. State Bar staff will get further clarification from EDC when the issue arises again.

Planthold moved to accept the draft Meeting Summary and Action Items from the August 13, 2021 meeting with the noted revision; Bayles-Fightmaster seconded. The motion passed by unanimous roll call vote.

### **IV. UPDATES**

#### **A. Discuss Expense Reports from Family Legal Assistance at CHOC Children's**

Acting Program Supervisor Erica Carroll reminded the committee that Family Legal Assistance at CHOC Children's is a current 2021 Interest on Lawyer Trust Account (IOLTA) and Equal Access Fund (EAF) grantee but were found ineligible for 2022 funding due to an incomplete application. The organization has now submitted all its outstanding evaluations and quarterly expense reports for 2020. State Bar staff will work to verify that the reports conform with State Bar records and will assist CHOC Children's with submitting 2021 materials as part of the process for closing out the grant.

**B. Discussion of Potential Action on Adjustments to IOLTA and EAF Allocations for Uncommon Law Based on Updated Qualified Expenditure Information**

Acting Program Supervisor Erica Carroll reported that one program, UnCommon Law, incorrectly allocated qualified expenditures to San Mateo County instead of Imperial County. UnCommon Law primarily provides services related to parole and determines county expenditures based on the location of clients for individual cases and the percentage of the total prison population per county for impact and advocacy work. On both their 2021 and 2022 applications, UnCommon Law accidentally identified one prison in the incorrect county.

This inaccuracy resulted in UnCommon Law receiving 2021 and 2022 IOLTA/EAF funds in San Mateo County when the organization does not provide services in that county (2021: \$380; 2022: \$1,480). UnCommon Law staff notified State Bar staff of the error and indicated they did not believe they could spend the 2021 or 2022 funds in San Mateo County. State Bar staff recommend allowing UnCommon Law to attempt to spend the funds in San Mateo County and require the organization to return funds if they cannot.

The committee asked whether family members can be clients. Acting Program Supervisor Erica Carroll indicated she believed UnCommon Law only serves incarcerated people. The committee also asked whether the administrative error resulted in a higher or lower IOLTA/EAF allocation. This is difficult to know because of the complexities of the funding allocation. Given the small amount of funds impacted, State Bar staff did not believe it warranted the administrative burden on staff and programs to re-run the allocation and adjust programs' funding.

Program Manager Doan Nguyen noted for the committee that the Rules Committee is planning to discuss and provide more guidance to programs about how they allocate qualified expenditures to counties. The Rules Committee will also provide guidance on when issues of incorrect allocations might need to be brought to the committee or commission for a decision.

The committee passed the following motion:

RESOLVED, that UnCommon Law may use the 2021 and 2022 IOLTA/EAF funds allocated to San Mateo County if it has the ability to provide qualified legal services in that county to indigent persons; unused funds must be returned to the State Bar for redistribution in future IOLTA/EAF grant cycles.

Blakemore moved and Planthold seconded. The motion passed by unanimous roll call vote.

**C. Discussion and Potential Action on Treatment of Budget Revisions Below 10 Percent Review Threshold That Deviate from Expense Ratio Guidelines**

Acting Program Supervisor Erica Carroll reminded the committee that current instructions for budget proposals recommend that programs budget 75 percent or more of their grant on personnel costs (versus non-personnel costs) and 75 percent or more on program costs (versus administrative costs). If programs deviate from those percentages, staff brings the budget proposal to the committee for review and approval. These current recommendations for budget proposals are a long-standing office practice, but not in the rules.

When programs submit budget revisions at the end of the year, budget revision guidelines state that revisions under 10 percent of the grant do not require review, revisions of 10-25 percent require staff review, and revisions of more than 25 percent require committee review. The guidelines for budget revision review are a codified policy in the Functional Matrix. Because small revisions do not require review, this can create a situation where a budget revision is made such that the budget deviates from the expense ratio guidelines above without State Bar staff or committee approval.

Committee members indicated a preference for when the budget revision results in a program deviating from the guidelines, it should be reviewed and approved by at least State Bar staff. Committee members also discussed whether repeated deviations from the guidelines should come to the committee or commission for discussion and review.

State Bar staff do not know of any programs where this is an issue currently. Staff can provide more data and information in a future meeting, after reviewing the most recent round of budget revisions. The committee recommended asking programs to alert State Bar staff to deviations that might impact deviations from the expense ratio guidelines.

**D. Preview of 2022 LSTFC Meeting Calendar**

Acting Program Supervisor Erica Carroll reported that State Bar staff are developing the 2022 committee meeting calendar and presented the tentative meeting calendar. State Bar staff avoided scheduling committee meetings on the same day as commission meetings. Some committee members indicated it is easier to have two meetings in one day when requesting time off from work, and others indicated a preference for avoiding two meetings in one day because it makes for long days,

particularly when on Zoom. Some committee members indicated a preference for Friday meetings as opposed to in the middle of the work week.

The committee also discussed comfortability with meeting in person and logistical challenges some members experienced attending in-person meetings in the past. Program Manager Doan Nguyen reported that flexibilities in the Bagley Keene Act that were enacted by the governor in response to the pandemic, which allow the committee to meet remotely without reporting member locations, expire at the end of January. Some groups are advocating to extend those flexibilities, so State Bar staff will keep the committee updated on any changes.

Chair Erica Connolly and Acting Program Supervisor Erica Carroll will work together to edit the draft meeting calendar.

## **V. IOLTA AND EAF BUDGET FROM GRANT YEAR 2022**

### **A. Discussion and Potential Action of Budget-Related Issues: Late Submissions, Purchase or Real Property/Capital Additions, Deviations from Standard Program/Administrative Expense Ratios, Possible Non-Qualifying Activities**

Acting Program Supervisor Erica Carroll reported on several issues related to programs' IOLTA/EAF budget proposals:

#### Late Submissions

Seven organizations did not submit their budget proposals on time (Casa Cornelia, Child Care Law Center, McGeorge Community Legal Services, Senior Advocacy Network, Social Justice Collaborative, Asian Pacific Islander Legal Outreach, and La Raza Centro Legal). Staff followed up with these programs the following day. Five of the seven programs submitted their budget on the same day of the notice from State Bar staff; the other two submitted within an additional day or two.

State Bar staff noted they did not direct programs with late budgets to attend the meeting or make a public comment, so programs that did not speak should not be viewed as indifferent about their late submission. All organizations were prompt in their follow-up and apologetic. State Bar staff recommend the committee accept late submissions to be reviewed with the rest of the budget proposals.

The committee discussed that programs have an obligation to be diligent, and that there is a difference between a program submitting their budget promptly after one reminder and a difficult program that responds much later. The committee discussed whether there could be a rule to allow staff approval if a budget is submitted within a certain timeframe after the deadline has passed, and whether

there could be different rules and guidelines for application submissions versus budget submissions.

The committee noted that the Legal Aid Association of California (LAAC) mentioned the multiple deadlines were acceptable when calendars were finalized earlier in the year. Lorin Kline from LAAC clarified that the organization continues to find the multiple deadlines acceptable. LAAC also offered to assist State Bar staff in providing technical assistance to programs, related to due dates and SmartSimple communication, if necessary and desired.

The committee discussed public comments made by Social Justice Collaborative that the organization does not receive automated emails and requests additional support from State Bar staff. Senior Program Analyst Danielle MacRae noted that Social Justice Collaborative is a newly funded organization in 2021 and there had been a change in their assigned State Bar staff contact because of staff turnover; however, MacRae had not been alerted by Social Justice Collaborative that the organization was not receiving SmartSimple emails. Staff Bar staff will work with the organization to provide technical assistance as needed. Committee members expressed confidence in State Bar staff's support to programs.

The committee noted that programs put their clients at risk when not meeting State Bar grant deadlines and expressed a desire to develop guidelines for when staff can have discretion to accept late submissions without committee approval.

The committee passed a motion to accept the staff recommendation and accept the seven late budget proposals for consideration (Planthold moved, Blakemore seconded). The vote was as follows:

Yes (7): Connolly, Akhlaghi, Bayles-Fightmaster, Blakemore, Mann, Meeker, Planthold

No (0): None

Abstain (1): Bennett

Blakemore volunteered to work with State Bar staff on a proposal to give staff discretion to accept some late submissions. This issue is in the 2022 workplan for the Rules Committee; Blakemore and Connolly may serve on that issue's working group as members of the Rules Committee.

#### Purchase of Real Property/ Capital Additions

Acting Program Supervisor Erica Carroll reminded the commission that organizations that propose capital additions more than \$5,000 or 5 percent of their grant award must have those parts of their budget proposals reviewed by the committee. EAF

non-personnel and administrative expenses must also be directly tied to funded activities.

One program, Neighborhood Legal Services (NLS), originally budgeted \$10,000 of their IOLTA allocation and \$25,000 of their EAF allocations to capital additions. State Bar staff did not know what amount was meant for tangible property purchases (which are under different guidelines) and what amount was meant for capital improvements. NLS staff indicated the funds would be held for use on an as-needed basis, as no specific project is planned.

Based on State Bar staff feedback, NLS adjusted their budget proposal to allocate \$5000 each of IOLTA and EAF awards to capital costs. The staff recommendation to the grantee was to budget for known expenses and to revise their budget later, if necessary, to request the use of State Bar funds for capital improvements. Given the small amount of funding compared to NLS's total allocation (\$991,100 IOLTA, \$1,623,930 EAF), State Bar staff were more comfortable with NLS proposing \$5000 of their IOLTA allocation be spent on capital additions or improvements; however, the EAF costs cannot be tied to EAF activities if they are unknown.

Lynne Hiortdahl, the Chief Financial Officer of Neighborhood Legal Services indicated the organization's EAF allocation doubled this year, and one of the buildings they own is very old and in need of repair. The building, however, is in the path of a planned metro line so the organization will likely lose the building soon. The organization receives Legal Services Corporation (LSC) funding, but LSC funds cannot cover the full cost of capital additions or improvements.

The committee discussed its position on programs holding IOLTA/EAF funds in reserve or without the funds tied to specific expenses. Program Manager Doan Nguyen indicated that, to her knowledge, the commission has not approved earmarking funds in this way before. The committee also discussed whether capital additions would be useful for long since the organization may lose the building.

Committee members asked whether building maintenance and repair costs can be allocated to IOLTA/EAF and whether those costs need to be identified in advance. Staff indicated that building repairs can be allocated to IOLTA. Staff's original concern was with the large amount of funds allocated and whether it indicated a more robust capital addition which would need commission review. Since the amount has been lowered to \$5000 per grant, the staff is now more concerned that the expenses charged to EAF cannot be tied to EAF activities since they are not yet identified. Program Manager Doan Nguyen indicated she has not regularly seen building maintenance and repair costs budgeted to EAF. Lynne Hiortdahl indicated

the anticipated expenses would be capital improvements (HVAC replacement, for example), so the costs are currently budgeted to the “capital additions” line item. She views minor building repairs as part of “space” costs, which is a different budget line item.

The committee suggested NLS completely remove capital additions expenses from their EAF budget and remove any unknown capital additions expenses from their IOLTA budget. Should the organization wish to use IOLTA funds on capital additions once those costs have been identified, the organization can make a budget revision request at that time.

The committee passed the following motion to not approve Neighborhood Legal Services’ current budget proposal because of the unknown capital additions expenses (Planthold moved, Bayles-Fightmaster seconded). The motion passed unanimously.

RESOLVED, that the Eligibility & Budget Review Committee will not recommend approval of Neighborhood Legal Services’ (NLS) current budget proposal which includes unknown capital additions expenses.

#### Deviations from Recommended Expense Ratios

Acting Program Supervisor Carroll reminded the committee that the State Bar recommends programs budget 75 percent or more to personnel (versus non-personnel) costs. The State Bar also recommends programs spend 40 percent or less of personnel costs on benefits compared to salaries. Two programs deviated from these recommendations in their 2022 IOLTA/EAF budget proposals.

The Los Angeles County Bar Association (LACBA) proposed to spend 68.5 percent of their EAF grant on personnel and 31.5 percent on non-personnel. However, the non-personnel costs include a contract attorney to coordinate their pro bono activities. Contract services fall under non-personnel costs, but it is still in support of providing services to clients. Staff recommend approval of the proposal despite the deviation.

Mental Health Advocacy Services (MHAS) proposed to hire a post-grad fellow with their IOLTA funds. The fellow’s salary would be covered by another organization, but the benefits are MHAS’s responsibility. Because MHAS would be paying only benefits for this person, their proposal includes more than 40 percent of total personnel spending on benefits. MHAS had a similar situation last year in their EAF budget proposal and it was approved. Staff recommend approval of the proposal despite the deviation.



The committee passed a motion to accept the State Bar staff recommendations (Planthold moved, Akhlaghi seconded). The vote was as follows:

Yes (7): Connolly, Akhlaghi, Bayles-Fightmaster, Bennett, Blakemore, Meeker, Planthold

No (0): None

Abstain (1): Mann

#### Possible Non-Qualifying Activities

Acting Program Supervisor Erica Carroll reported on proposals with potentially non-qualifying activities. Social work activities currently fall outside of the definition of “legal services,” but it has been a longstanding practice for the committee and commission to approve using funds for social work if there is a nexus to a legal outcome and if the services are provided in collaboration with attorneys. The committee asked whether all the programs proposing to fund social work with IOLTA/EAF had been approved in the past; State Bar staff indicated most had. Those who were proposing to fund social workers for the first time described the work similarly to those that had been approved in the past.

There were other programs that proposed spending funds on other activities that were previously elevated to the committee for individual review and were approved. Examples include Public Advocates Inc., an organization that does a lot of impact work. Two years ago, they included higher education activity in their Impact Litigation and Advocacy Work (ILAW) report that was not approved as a qualifying activity. In their most recent report, the organization provided sufficient evidence to demonstrate that the work primarily supported indigent clients and the work was approved as a qualifying activity. They are now proposing to use State Bar funds on that activity. Similarly, California Indian Legal Services previously proposed using State Bar funds on a water reconnaissance study that broadly supported an indigent population. It was approved and they are now proposing to spend State Bar funds on that work again.

State Bar staff recommend approving these proposals, including those with social work activities and other previously approved activities.

The committee passed a motion to accept the State Bar staff recommendations on both social work and previously approved activities (Planthold moved, Bayles-Fightmaster seconded). The vote was as follows:

Yes (7): Connolly, Akhlaghi, Bayles-Fightmaster, Blakemore, Mann, Meeker, Planthold

No (0): None

Abstain (1): Bennett

**B. Recommend Approval or Revision of 2022 IOLTA and EAF Budget Proposals to Legal Services Trust Fund Commission**

Acting Program Supervisor Erica Carroll asked the committee to postpone a vote on recommending budget proposal approvals and revisions until the next committee meeting. State Bar staff are continuing to provide technical assistance to programs that are revising and finalizing budget proposals to address minor administrative issues.

There being no other business, the meeting was adjourned at 12:52 p.m.