

LEGAL SERVICES TRUST FUND COMMISSION
EXECUTIVE COMMITTEE MEETING
Meeting Summary and Action Items
Wednesday October 27, 2021, 1:00 p.m.–3:00 p.m.
State Bar of California (Conference Call via Zoom)

Roll Call

Members Present

Co-Chair Richard Reinis
Co-Chair Kim Savage
Co-Vice Chair Christian Schreiber
Co-Vice Chair Christina Vanarelli

Liaisons

Bonnie Hough
Salena Copeland

Public Members

Claire Solot, Legal Services Funders Network

Staff

Brady Dewar
Elizabeth Hom
Doan Nguyen
Dan Passamaneck

OPEN SESSION

Co-Chair Reinis called the meeting to order at 1:00 p.m.

I. ROLL CALL

Roll call was taken, and quorum was established.

II. CALL FOR PUBLIC COMMENT

Co-Chair Reinis invited members of the public to comment on any items on the agenda. No public comment was made.

III. CONSENT

A. Approval of Meeting Summary and Action Items from the August 3, 2021 Meeting

The Executive Committee approved the August 3, 2021 meeting summary and action items by unanimous roll call vote (Schreiber moved, Savage seconded).

IV. DISCUSSION AND ACTION ITEMS

A. Update on Provisionally Licensed Lawyer (PLL) Grants

Program Manager Doan Nguyen reported that checks have been issued for all PLLs that have been hired as part of this grants program; one candidate was not issued a provisional license and staff is trying to find an applicant that could still use this grant to fund a PLL. A committee member noted that funding for this project was provided by a temporary increase to licensing fees, and that the commission might want to identify another project to put forward when advocating for a continuation of that increase.

B. Discuss Client Complaint regarding Legal Services of Northern California (LSNC)

Senior Program Analyst Dan Passamaneck reported that State Bar Rule 3.692 provides a procedure for addressing complaints received about recipients of State Bar grants. This procedure requires staff to try to resolve any such complaint informally, and to report to the commission on any complaint that has not been resolved within 90 days with a recommendation on any further action needed. The complainant and grantee are both entitled to a copy of the report to the commission, and the grantee is entitled to a copy of the complaint. Those parties then have 30 days to provide further information or to request that the commission set an informal conference to review the matter further. The standard for review is whether the grantee met its ethical obligations to its clients and its legal obligations to the State Bar.

In this instance, a complaint was received in March 2021 stating that the complainant had completed an intake with LSNC in November 2020 but LSNC had not provided any assistance. Staff reviewed the complaint and sought informally to resolve the complaint over a period of several months; the timeline for these efforts was longer than typical due to challenges in communicating with complainant. Following State Bar staff outreach to both the complainant and LSNC, LSNC completed an intake for the complainant in August, and began to assist the complainant with legal options and resources through the month of September.

On October 22, staff advised the complainant by telephone that the staff report on this complaint would recommend that it be dismissed because staff review had revealed no evidence that LSNC had failed to meet any Trust Fund rules or policies. Staff also explained that they would email him a copy of the report and he would then have 30 days to provide more information to the commission. The complainant stated that he understood this procedure and agreed that LSNC had provided him with some legal assistance and resources. However, he stated that they did not assist him in a timely way or in the area in which he most needed help, so he wanted to revise his complaint to allege, not that LSNC had failed to provide legal assistance, but that LSNC had failed to provide the assistance he needed in a sufficiently timely manner to prevent the issue from deteriorating to the point LSNC was no longer able to assist him with it.

Program Manager Nguyen commented that staff typically are able to resolve these kinds of complaints before they reach the Commission, and that LSNC is concerned about the possibility of being unfunded because of this complaint. Nguyen therefore recommended that this process be brought to the Rules Committee to consider whether a better option exists for reviewing complaints against providers. Nguyen also agreed to reach out to the Office of General Counsel for further information and advice about this issue.

C. Discuss 2022 Meeting Calendar

Program Manager Nguyen reported on the proposed schedule for meetings of the Legal Services Trust Fund Commission (LSTFC) and the Executive Committee. LSTFC meetings are scheduled from 12:00 p.m. to 4:00 p.m. on March 11, June 17, August 12, and Wednesday November 16; Executive Committee meetings are scheduled from 1:00 p.m. to 3:00 p.m. on the following Tuesdays: February 15, May 31, August 2, and November 2. Co-Vice Chair Schreiber advised of a possible conflict for the May 31 Executive Committee meeting.

D. Review Legal Services Trust Fund Commission Committee Assignments

Program Manager Nguyen reported on tentative committee assignments as included with the meeting materials. Commission member Ball has requested not to be made chair of the Bank Grants Committee except as a last resort. The Bank Grant Committee has oversight of about \$7 million yet to be distributed and will need to consider some requests for carryovers and budget modifications. Commission Member Planthold was identified as a potential chair for this committee; Nguyen agreed to ask him if he would be comfortable with that appointment.

The committee discussed whether to revive the nominations committee, which may be an even more important commission function given how new legislation impacts the number and sources of appointments. A suggestion to consider taking steps to reduce the expectations on individual commission members by expanding the size of the commission, was set aside for further consideration at a later time.

E. Discuss Passage of Senate Bill 211 and Senate Bill 498

Program Manager Nguyen reported on recently enacted legislation. Senate Bill 498 increases income thresholds for indigency; Senate Bill 211 expands the commission's authority and lets programs count expungements and infractions as eligible activities. In particular, SB 211 enacts Business and Professions Code section 6210.5, which sets forth a new structure for the commission. A possible nominations committee could have responsibilities related to outreach to some of the other nominating groups named in this legislation.

Part (e) of section 6210.5 will change the relationship between the commission and the State Bar Board of Trustees. Currently, the Board may reject the commission's recommendations on policy changes. This new legislation requires the board to approve such policy changes unless they make a written finding that the new policy is in conflict with a statutory, fiduciary, or legal obligation of the State Bar. Subpart (4) of subsection (e) is less of a change because the Board currently only approves the total amount of IOLTA funding to be distributed, not the individual grants.

In light of these legislative changes, the commission may wish to ask the rules committee to review the Functional Matrix, assess to what extent it is still a useful guide, and suggest changes as needed.

Senate Bill 498 changes the definition of “indigent,” raising it to 200 percent of the federal poverty threshold with additional carve-outs. This legislation takes effect January 1, 2022; services provided prior to that date will be held to the previous indigency standards.

F. Recruitment (Previously addressed at D and E)

G. Trust Fund Meeting Agenda

Program Manager Nguyen shared the tentative agenda for the Commission’s November 17 meeting; no other issues were identified for discussion at that meeting that needed to be added to that tentative agenda.

H. Legal Service Trust Fund Commission priorities

Program Manager Nguyen noted that some discussion under this topic had been included in previous topics. The 2017-2022 priorities adopted by the State Bar have not changed significantly, but recruitment is a new area of focus, as well as recognition – both for departing commission members, and for staff. Options raised include a legislative commendation, a plaque suitable for framing or display, or a book related to access to justice. The State Bar will want to have consistent practices and policies for recognition across different committees and commissions. Chief of Programs Donna Hershkowitz agreed to consider this question and suggest some options.

V. ADJOURN

There being no other business, the meeting was adjourned at 2:00 p.m.