



The State Bar of California

OPEN SESSION AGENDA ITEM V.C SEPTEMBER 2022 ELIGIBILITY & BUDGET REVIEW COMMITTEE

DATE: April 29, 2022

TO: Members, Eligibility & Budget Review Committee, Legal Services Trust Fund Commission
Members, Legal Services Trust Fund Commission

FROM: Erica Carroll, Lead Program Analyst, Office of Access & Inclusion
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SUBJECT: Review of 2021 Impact Litigation and Advocacy Activity Reports

EXECUTIVE SUMMARY

Business and Professions Code section 6216 prescribes the method for distributing IOLTA funds to qualified legal services organizations based on a formula centered in part on the organization's "qualifying" expenditures (i.e., costs in support of legal services that benefit indigent persons). Equal Access Fund (EAF) grants are also distributed according to the IOLTA formula. The Legal Services Trust Fund Commission Eligibility and Budget Review Committee (E&BR Committee) will meet on April 29, 2022, to review impact litigation and advocacy activities, as reported by both qualified legal services projects (QLSPs) and support centers (SCs) in their Impact Litigation and Advocacy Work (ILAW) reports. These reports detail activities that organizations wish to count as qualifying expenditures in their grant applications.

Potentially non-qualifying impact litigation cases and advocacy activities from 2021 are reviewed prior to the IOLTA and EAF application process to streamline the application review for Commissioners and staff. Activities found to be non-qualifying will need to be deducted in the organizations' 2023 IOLTA and EAF grant applications. A reduction in the amount of qualifying expenditures could reduce the allocation of funds to an organization.

Staff conducted an initial review of the ILAW reports to assess the qualifying nature of activities according to the requirements for QLSPs and SCs discussed below. Where the activity initially

appeared to be non-qualifying, staff is elevating said activity to the Committee for further review. Of the 447 impact cases and 453 advocacy activities reported, the overwhelming majority were qualified activities.

Staff is seeking the Committee's determination on three impact litigation cases and one advocacy activity. (Attachments B and C.) Staff also seeks determination as to whether six activity categories (comprised of several individual activities) can be assumed to primarily impact indigent persons where data was lacking, and approval of fifteen reports describing a significant and disproportionate impact on indigent Californians but without objective evidence establishing that more than fifty percent of those benefitted were indigent.

BACKGROUND

GOVERNING AUTHORITIES

Business and Professions Code section 6216 provides for distribution of IOLTA funds to qualified legal services organizations based on a formula centered in part on the organization's "qualifying" expenditures on legal services that benefit indigent persons or provide support to legal organizations that serve indigent persons.

QLSPs and SCs have different requirements for what is considered a qualifying activity. According to Business and Professions Code section 6213(a), a QLSP's primary purpose is to provide civil legal services to indigent persons in California without charge. As such, to be considered qualifying, the activities in a QLSP's ILAW report must (1) be legal services and (2) primarily impact indigent individuals.

State Bar Rule 3.672(A) defines "legal services" (as distinct from legal support services) to "include all professional services provided by a member of the State Bar and similar or complementary services of a law student or paralegal under the supervision and control of a member of the State Bar." Business and Professions Code section 6213(d) currently defines "indigent person" as someone whose income is 200 percent or less of the federal poverty threshold, a senior, a person with a developmental disability, or a person who is eligible for Supplemental Security Income. However, the income criterion in effect during 2021 was 125 percent of the federal poverty threshold, so that figure was used for review of these reports. QLSPs that receive a pro bono allocation may use higher income thresholds under indigency guidelines issued by the Department of Housing and Urban Development (Bus. & Prof. Code § 6213(d)).

Unlike QLSPs, SCs are not restricted to providing services specific to the legal concerns of indigent persons. According to Business and Professions Code section 6213(b), a SC's primary purpose is the provision of legal training, technical assistance, or advocacy support without charge and which provides a significant level of these support services without charge to QLSPs on a statewide basis.

State Bar Rules and Support Center Eligibility Guidelines refine this definition, providing that direct representation to clients, including in impact litigation, is not considered a qualifying support service unless the case is:

- co-counseled with a QLSP (State Bar Rule 3.672(b));
- co-counseled at the request of a private attorney representing indigent clients without charge (Support Center Eligibility Guidelines 2.3(c)); or
- undertaken at the request of a QLSP that is unable to assist the client (State Bar Rule 3.672(b)).

Governing authorities do not define qualified advocacy work for either QLSPs or SCs.

STAFF REVIEW PROCESS

All grantees are required to submit ILAW reports for the 15 impact litigation cases and 10 advocacy activities that demanded the most staff hours in the prior year. If the total number of cases and activities exceeded this requirement, grantees must provide a brief description of those additional activities. Staff reviewed these reports to assess whether activities were clearly qualifying or non-qualifying based on governing authorities. If staff was unable to resolve whether the matter was qualifying, the activity was elevated to the E&BR Committee for further review.

Qualified Legal Services Projects (QLSPs)

Impact litigation by QLSPs was determined to be qualifying if it primarily impacted indigent persons in California as defined by Business and Professions Code §6213(d) and Commentary to 2.3.4 of the Legal Services Projects Eligibility Guidelines. Historical practice has been to interpret “primarily” as more than 50 percent of persons who would benefit from the activity. As such, staff considered an impact case qualifying if:

- the client was indigent;
- more than 50 percent of the named plaintiffs or class was indigent; and/or
- sufficient support was provided to demonstrate that more than 50 percent of those impacted were indigent.

If the named plaintiff in an impact case was not indigent or less than 50 percent of the class was indigent, and there was no data or limited data to demonstrate that the case primarily impacted indigent persons in California, staff have elevated it for the committee’s review. Attachment B provides background on the cases being elevated for review this year.

Advocacy by QLSPs must both be a legal service and primarily impact indigent persons in California. While governing authorities do not explicitly state that advocacy activities are qualifying for QLSPs, historical practice has been to interpret legal services to include legal advocacy activities. Staff has therefore interpreted qualifying advocacy activities to include policy work such as drafting a bill, participating in a legislative campaign, or enforcing a law or

regulation where the majority impacted were indigent persons. Attachment C provides background on one impact advocacy activity elevated this year for the committee's review.

Support Centers (SCs)

Due to the nature of the work of SCs, the definition of a qualifying activity is different. Litigation that involved direct representation of indigent clients was qualifying under the current rules so long as it is either co-counseled with a QLSP, co-counseled at the request of a private attorney representing indigent clients without charge, or undertaken at the request of a QLSP that is unable to assist the client. See State Bar Rules 3.672(b) and 3.682 and Commentary to 2.2.1 of the Support Center Eligibility Guidelines. Staff also looked at the underlying substance of the case to ensure that it would benefit indigent Californians. No SC impact litigation has been elevated this year for the Committee's review.

Staff considered SC advocacy work qualifying if it generally supported QLSPs or advocates who provided direct civil legal services to indigent persons. Under this analysis, no support center advocacy activities are being elevated for E&BR Committee review.

DISCUSSION

Staff reviewed nine hundred individual activity reports and were able to recommend approval for more than ninety percent of them. However, some ILAW reports require commission approval because they do not objectively establish that a majority of those impacted are indigent people in California. Some of these reports concern legal issues that the commission has previously determined were generally qualified because of their impact on indigent people; some reports provided persuasive evidence of a particular and disproportionate impact on indigent people. Staff recommend that all these activities be approved. In addition, four reports present novel questions requiring individual consideration, which the committee must determine whether to approve.¹

ACTIVITIES RELATING TO FINES, FEES, OR CONVICTIONS

Several ILAW reports identify services relating to expungement and infractions. During ILAW review in 2021, the State Bar Office of General Counsel (OGC) concluded that expungement and infraction work, specifically, is likely criminal, rather than civil, legal services. The LSTFC subsequently determined that expenditures for expungement and infraction services could be considered qualifying activities if performed on behalf of indigent persons, although those services could not be funded using IOLTA/EAF monies under existing rules.

In December 2021, the Legislature enacted revisions to the IOLTA statute that, among other things, expressly include expungement and infraction services as qualified activities. These revisions are not retroactive and do not apply to the activities reported here. Staff recommend

¹ In addition, reports on activities that had been approved in prior years, that indicated no changes in the parties or issues, were re-approved.

that the commission adopt the same practice as it did last year to find these activities qualified for eligibility purposes even though they could not have been funded with IOLTA grants

STAFF PROPOSAL FOR IMPACT WORK IN CATEGORIES WHERE A NEXUS TO INDIGENCY HAS HISTORICALLY BEEN PRESUMED

Since 2019, the E&BR Committee has recognized that legal services in certain issue areas typically benefit a large number of indigent persons, or provide a particularly substantial benefit to them. On this basis the commission has found activities within these categories to be qualified even where objective evidence of a primary impact on indigent people was not available. Four such categories were initially approved by this Committee in 2019; two more were added in 2020.

In the absence of policy providing further guidance, staff proposes that this year the E&BR Committee continue its practice of approving impact litigation and advocacy activities as meeting the indigency requirement, even if specific evidence of a primary benefit to indigent people is not available, in the following six categories: affordable housing, educational equity, low-income immigrants, low-wage workers, public benefits, and youth in detention.

Affordable Housing

Grantees reported 2 impact cases and 16 advocacy activities related to affordable housing which did not include direct evidence of a nexus to indigency. Examples include litigation to protect affordable housing opportunities and enforce housing elements; services focused on specific locations with special housing challenges; and advocacy to enhance tenant protections.

The lack of affordable housing disproportionately impacts seniors and low-income individuals and families, and the problem is exacerbated in high-cost areas such as San Francisco and Los Angeles. Staff recommends that affordable housing impact cases and advocacy activities be approved as meeting the indigency requirement.

Education Equity

Grantees reported 3 impact litigation and 2 impact advocacy activities related to education equity for low-income students in California which did not include direct evidence of a nexus to indigency. Advocacy included efforts to expand college access for low-income students, and to remove school resource officers from campuses where they functioned as police officers. Litigation sought to address discrimination in administration and enforcement in schools, and monitored compliance with court orders mandating educational access for students with developmental disabilities.

Limited or no data exist that clearly demonstrates that more than 50 percent of those impacted fall within the IOLTA definition of indigent; however, legal services can impact entire schools and school districts even when they have particular significance and benefit for indigent students.

In past years, eligibility standards for free and reduced-price lunches were proposed as a proxy for indigency; the committee individually considered each activity citing this standard before finding them all qualified. This year, no new activities cite this standard as a basis for qualified status; rather, grantees provided evidence regarding the high rate of indigency among students in relevant districts, and how indigent students are particularly impacted by deprivation of educational opportunities. For example, in one case the number of impacted students who were indigent was calculated to be 2,000 individuals; staff found this to be a significant impact in a local school district (Sacramento). Staff therefore recommends that educational equity impact activities be found qualifying if they were undertaken for the benefit of a significant number of indigent students or English language learner students.

Low-Income Immigrants

Grantees reported 6 impact cases and 8 advocacy activities related to low-income immigrants in California which did not include direct evidence of a nexus to indigency. Examples of reported activities benefitting low-income immigrants include litigation challenging delays in reviewing visa petitions and processing asylum applications, and policy advocacy work related to revisions to USCIS policies and the health and safety of detained immigrants.

Limited or no data exist that clearly demonstrate that more than 50 percent of those impacted are within the IOLTA definition of indigent. However, the activities reported describe how this constituency is generally low-income and likely indigent per the IOLTA income requirement, particularly when individuals lack work authorization.

Staff recommends that impact cases and advocacy activities that disproportionately impact low-income immigrants be approved as meeting the indigency requirement.

Low-Wage Workers

Grantees reported 4 advocacy activities related to the needs of low-wage workers which did not include direct evidence of a nexus to indigency. These included advocacy on behalf of street vendors, for protection against payday loans, and for improved workplace conditions.

These reports were not able to calculate the percentage of workers who were indigent based on the Business and Professions Code definition. However, in prior years the commission has noted that minimum wage in California is an indigency wage for a household of three or more. Low-wage workers also include many Californians who earn less than minimum wage for a variety of reasons, are charged by their employers for work expenses until their income is below poverty level, and/or are trapped in exploitative or abusive working conditions. While worker protection advocacy can benefit all workers, it most benefits those low-wage workers. Staff recommends approval of activities that disproportionately benefit low-wage workers.

Public Benefits

Grantees reported 6 advocacy activities that address public benefits-related issues for low-income Californians which did not include direct evidence of a nexus to indigency. Limited or no data exist that clearly demonstrates that more than 50 percent of those impacted fall within the IOLTA definition of indigent. However, organizations have presented data that serves as a compelling proxy for measuring the number of indigent persons and that this work most likely impacted primarily indigent populations. For example, advocacy regarding Medi-Cal pertains mostly to adults, who are seniors or have income limited to 138 percent of the federal poverty threshold. Other advocacy in this category pertain to the Department of Social Services, which predominantly serves indigent individuals; and In-Home Supportive Services, which are authorized for individuals who are disabled and unable to afford professional medical care. Given that means-tested public benefits programs are designed to meet the basic needs of low-income families and children, a lack of clear data should not prohibit organizations from claiming this work as qualified.

Staff recommends that impact cases and advocacy work related to means-tested public benefits – including but not limited to CalWORKs, Medi-Cal, and IHSS– be approved as meeting the indigency requirement.

Youth in Detention

Grantees reported 3 impact litigation cases and 2 advocacy activities that involved youth who were detained, which did not include direct evidence of a nexus to indigency. Another 5 cases and 2 advocacy activities involved both detained youth and low-income immigrants. Examples included litigation to enforce settlement terms related to conditions of confinement for youth in immigration detention; to address the Office of Refugee Resettlement’s failure to follow its own policies about placing children in the least restrictive environment; and advocating for better oversight of immigration detention facilities licensed by the California Department of Social Services; and policy advocacy to improve funding for attorneys serving youth in the dependency system.

Most minors have limited to no income, and youth who are detained face another barrier to obtaining assistance as many are cut off from accessing their family or community resources. Thus, the vast majority of detained youth would meet the definition of indigency. However, clear data is not available to demonstrate this.

Staff recommends that ILAW activities related to youth in detention be approved, including those also involving low-income immigrants.

ACTIVITIES WITH A DISPROPORTIONATE IMPACT ON QUALIFIED CONSTITUENCIES

Some ILAW reports do not identify a primary impact on indigent people, and are not within the categories where such an impact has been presumed in prior years, but provide evidence that indigent individuals are particularly impacted by that issue or that they derive particular benefit from the activity. Staff have identified fifteen reports that provide persuasive evidence of a disproportionate impact on indigent Californians, grouped for purposes of reporting under five

categories: access to justice, commercial/financial, disaster response, survivors of violence or crime, and vehicular matters (parking, tows, etc). Each report was reviewed in detail to identify the basis for finding a particular or disproportionate impact on indigent individuals; in many instances staff conducted follow-up for more information. Based on this review process, staff recommends approval of the following impact litigation and advocacy activities:

Access to Justice: Judicial Council Form Update Advocacy (Neighborhood Legal Services (NLS))

This advocacy contributed to improvements in Judicial Council forms that are intended for use by all litigants. Self-represented litigants require forms that eliminate barriers to justice; NLS's advocacy helped ensure their ability to complete the forms and obtain justice. Although improved forms help all litigants, they are the most helpful to those with no access to assistance of counsel. Because of the benefit to indigent litigants, staff recommend that this activity be approved.

Commercial/Financial: Consumer Protection - AB 1405 (East Bay Community Law Center (EBCLC)); In re: Renovate America Finance Cases (EBCLC); BBBB v Caldwell (Lawyers' Committee for Civil Rights (LCCR)); BBBB v Elite (LCCR); Consumer Group Quarterly Meeting with DFPI (Legal Aid Society of San Diego); Changes to IRS Mandatory 60 Day Postponement (NLS); AB 430 – Identity Theft Advocacy (PLC); Arbitration Advocacy (PLC); AB 1020 Medical Debt and Charity Care Advocacy (PLC)

These two impact cases and seven advocacy activities pertain to fiscal and commercial issues where indigent people are particularly likely to be impacted, such as bail bonds, debt collection practices, identity theft, medical debt and access to free medical services, and protections for low-income consumers. While evidence is not available to establish that a majority of those impacted are indigent, information provided supports a conclusion that these activities had a significant and disproportionate impact on indigent individuals. For example, both litigation regarding PACE loans and advocacy for debtor's rights most often benefit seniors and low-income individuals. For this reason, staff recommend that these activities be approved.

Disaster Response: Comment on State Budget (NLS); FEMA Public Assistance Rule (NLS)

These advocacy activities sought to strengthen public response and resources in times of emergency or disaster. Evidence was not provided to demonstrate that these benefits would be provided primarily to indigent people. However, indigent people are more likely to be impacted during a disaster or emergency due to lack of resources like insurance and are likely to rely on public benefits like FEMA. Additionally, due to a disaster, individuals who would not otherwise be considered indigent may also rely on FEMA because they have lost access to their homes and other resources. Staff recommend that advocacy relating to disaster recovery and support be approved.

Survivors of Violence or Crime: Hate Violence Victim Support Act (AB 886)/API Equity Budget (Asian Americans Advancing Justice – Los Angeles); Letter in Support of AB 124 (Mental Health Advocacy Services)

These two advocacy activities sought to address the needs and concerns of individuals targeted for violence by an intimate partner or because of their racial or ethnic identity. One consequence of domestic violence can be losing access to funds and resources; hate crimes are often directed against immigrant, ethnic, or racial groups that have faced systemic barriers impacting access to jobs, housing, and other resources. Both issues can contribute to indigency among individuals and in communities. Both reports provide evidence identifying a significant number of indigent people impacted, and the particular significance of that impact. For these reasons staff recommend that these activities be approved.

Parking and Vehicles: Navarro v City of Mountain View (Law Foundation of Silicon Valley)

This litigation pertains to a ban on parking recreational vehicles. These vehicles are often used by indigent people who would otherwise be unhoused. Although evidence was not available establishing that a majority of the people impacted by this advocacy are indigent, the nature of the issue supports an inference that a substantial number of them would meet the statutory definition of indigency. For this reason, staff recommend that these activities be approved.

INDIVIDUAL ACTIVITIES ELEVATED FOR COMMITTEE REVIEW

Staff is elevating three QLSP impact litigation activities and one advocacy activity for E&BR Committee review.

Impact Litigation Reports for Review

The three impact litigation activities under consideration were all reported by Public Counsel: *Integrate NYC v. State of New York*; *Kevin S. v. Jacobson*; and *Scott C. v. Riverview Gardens School District*. Each of these was litigated outside of California. (See Attachment B.) Governing authorities generally prohibit out-of-state work from counting as a qualifying expenditure for qualified legal services projects. (See Business and Professions Code section 6213(b); Eligibility Guidelines for Legal Services Projects, Commentary to Guideline 2.2.)

In response to questions regarding these cases, Public Counsel pointed to the overlap between similar issues in California and these cases. (See Attachment B for the ILAW reports related to these three cases as well as the additional information provided by Public Counsel.) The organization reported that one case (*Kevin S.*) was the result of settlements in cases like *Katie A.*, which was a significant case in Los Angeles. It also reported that the outcomes in the other two cases (*Integrate NYC* and *Scott C.*) would provide persuasive authority or model guidance for addressing similar issues in California.

Staff agrees that the outcomes of these cases may be applicable in California. However, because that application may only happen at some indeterminate time in the future, staff is unable to identify a current benefit or impact for indigent persons in California and therefore does not recommend approval of these activities as qualifying expenditures.

Public Counsel also reported on three other out-of-state cases involving federal litigation establishing binding precedent in California. The subject matter of those cases related to veterans, immigrants, and education rights of Native American students. Despite taking place

outside of California, staff has generally treated these types of cases as qualifying when they have direct impact on indigent persons in California and recommends that they be approved.

Advocacy Report for Review

Staff is also elevating one QLSP advocacy activity for commission review: redistricting advocacy reported by Asian Americans Advancing Justice – Los Angeles (AAAJ-LA). (See Attachment C.) Based on the described activity, AAAJ-LA primarily focused on Asian American and Pacific Islander (AAPI) and Arab, Middle Eastern, Muslim, and South Asian (AMEMSA) communities in Southern California. Its partner organizations engaged in similar work in other parts of the state, and the advocacy has the potential to impact all voters in California.

AAAJ-LA cited statistics indicating that the rate of poverty among the AAPI communities it works with is higher than the rate of poverty generally in Los Angeles County (e.g., 16 percent in LA County as a whole, versus 22-29 percent in communities such as Koreatown, Chinatown/Little Tokyo, and Historic Filipinotown). (See Attachment C for the ILAW report and additional information provided by AAAJ-LA.)

Last year, the E&BR committee found another redistricting advocacy activity connected to the passage of the FAIR MAPS Act non-qualifying. FAIR MAPS related to redistricting at the city and county levels and provided instruction regarding the timing of redistricting (after the decennial census), guidance for line drawing, and requirements for public participation.

As part of this year's redistricting activity, AAAJ-LA collaborated with partner organizations to establish inclusive redistricting proposals, offered education about the redistricting process, garnered community feedback, monitored redistricting activities, and made recommendations to local boards regarding the boundaries of AAPI and AMEMSA "communities of interest," which are defined as "a population that shares common social or economic interests that should be included within a single supervisorial district for purposes of its effective and fair representation."

Given that this activity appears to be a progression of similar work that was found non-qualifying previously, staff has elevated this activity for committee review. The redistricting activity involves advocacy around implementation of new redistricting requirements, which has implications for all voters. AAAJ-LA reported that its particular advocacy was focused on specific communities (AAPI and AMEMSA). There are indigent persons represented within these communities, but it is not clear that the activity primarily benefits or disproportionately impacts indigent persons. Consequently, staff does not recommend approval of this activity as a qualifying expenditure.

HOW ILAW REPORTS ARE USED

ILAW reports serve both an informational and an administrative function. On their face, these reports provide robust data about the entire community of grantees. This kind of information is critical to understanding the real significance of the raw numbers of reported cases and activities. The range of these activities and types of services reflect how grantees have

responded to statewide and local needs. This helps the State Bar and all stakeholders in the development of programs and policies to address the legal needs of indigent Californians.

ILAW reports are also part of the annual application process, which includes an assessment of prior-year activities to identify any that should be deducted as non-qualified expenditures. Applicants with at least seventy-five percent qualified expenditures are presumed eligible for grants. Additionally, grant awards for QLSPs are determined using a formula in the IOLTA statute that is based, in part, on each QLSP's respective qualified expenditures; those with higher expenditures receive larger grants. ILAW review helps ensure that eligibility and grants are both determined only on the basis of qualified activities and expenditures.

RECOMMENDATIONS

Should the Eligibility and Budget Review Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Eligibility and Budget Review Committee of the Legal Services Trust Fund Commission approves staff's recommendations regarding approval of ILAW reports and activities for 2021, including approval of all activities presented as part of a category of activities that have special impact on indigent individuals, and those activities found to have particular or disproportionate impact on indigent individuals.

This Committee should also make a determination:

- Whether the out-of-state litigation activities reported by Public Council and individually considered by this Committee demonstrate a sufficient connection to the legal concerns of indigent Californians to be approved; and
- Whether the redistricting advocacy reported by Asian Americans Advancing Justice – Los Angeles demonstrates a sufficient connection to the legal concerns of indigent Californians to be approved.

ATTACHMENTS LIST

A. Governing Authorities

1. Business and Professions Code 6212-6216
2. State Bar Rules, Legal Services Trust Fund Program
3. Eligibility Guidelines for Qualified Legal Services Projects
4. Eligibility Guidelines for Support Centers

B. ILAW Reports, Background Materials, and Additional Information: Non-Precedential Out-of-State Litigation (Public Counsel)

1. *Integrate NYC v. State of New York* (New York State; educational equity)
2. *Kevin S. v. Jacobson* (New Mexico; Indian Child Welfare Act issues)



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (Heading of Division 3 added by Stats. 1939, Ch. 30.)

CHAPTER 4. Attorneys [6000 - 6243] (Chapter 4 added by Stats. 1939, Ch. 34.)

ARTICLE 14. Funds for the Provision of Legal Services to Indigent Persons [6210 - 6228] (*Article 14 added by Stats. 1981, Ch. 789, Sec. 1.*)

[6210.](#) The Legislature finds that, due to insufficient funding, existing programs providing free legal services in civil matters to indigent persons, especially underserved client groups, such as the elderly, the disabled, juveniles, and non-English-speaking persons, do not adequately meet the needs of these persons. It is the purpose of this article to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons, and to initiate new programs that will provide services to them. The Legislature finds that the use of funds collected by the State Bar pursuant to this article for these purposes is in the public interest, is a proper use of the funds, and is consistent with essential public and governmental purposes in the judicial branch of government. The Legislature further finds that the expansion, improvement, and initiation of legal services to indigent persons will aid in the advancement of the science of jurisprudence and the improvement of the administration of justice.

(*Added by Stats. 1981, Ch. 789, Sec. 1.*)

[6211.](#) (a) An attorney or law firm that, in the course of the practice of law, receives or disburses trust funds shall establish and maintain an IOLTA account in which the attorney or law firm shall deposit or invest all client deposits or funds that are nominal in amount or are on deposit or invested for a short period of time. All such client funds

may be deposited or invested in a single unsegregated account. The interest and dividends earned on all those accounts shall be paid to the State Bar of California to be used for the purposes set forth in this article.

(b) Nothing in this article shall be construed to prohibit an attorney or law firm from establishing one or more interest bearing bank trust deposit accounts or dividend-paying trust investment accounts as may be permitted by the Supreme Court, with the interest or dividends earned on the accounts payable to clients for trust funds not deposited or invested in accordance with subdivision (a).

(c) With the approval of the Supreme Court, the State Bar may formulate and enforce rules of professional conduct pertaining to the use by attorneys or law firms of an IOLTA account for unsegregated client funds pursuant to this article.

(d) Nothing in this article shall be construed as affecting or impairing the disciplinary powers and authority of the Supreme Court or of the State Bar or as modifying the statutes and rules governing the conduct of members of the State Bar.

(Amended by Stats. 2007, Ch. 422, Sec. 2. Effective January 1, 2008.)

[6212](#). An attorney who, or a law firm that, establishes an IOLTA account pursuant to subdivision (a) of Section 6211 shall comply with all of the following provisions:

(a) The IOLTA account shall be established and maintained with an eligible institution offering or making available an IOLTA account that meets the requirements of this article. The IOLTA account shall be established and maintained consistent with the attorney's or law firm's duties of professional responsibility. An eligible financial institution shall have no responsibility for selecting the deposit or investment product chosen for the IOLTA account.

(b) Except as provided in subdivision (f), the rate of interest or dividends payable on any IOLTA account shall not be less than the interest rate or dividends generally paid by the eligible institution to nonattorney customers on accounts of the same type meeting the same minimum balance and other eligibility requirements as the IOLTA account. In determining the interest rate or dividend payable on any IOLTA account, an eligible institution may consider, in addition to the balance in the IOLTA account, risk or other factors customarily considered by the eligible institution when setting the interest rate or dividends for its non-IOLTA accounts, provided that the factors do not discriminate between IOLTA customers and non-IOLTA customers and that these factors do not include the fact that the account is an IOLTA account. The eligible institution shall calculate interest and dividends in accordance with its standard practice for non-IOLTA customers. Nothing in this article shall preclude an eligible

institution from paying a higher interest rate or dividend on an IOLTA account or from electing to waive any fees and service charges on an IOLTA account.

(c) Reasonable fees may be deducted from the interest or dividends remitted on an IOLTA account only at the rates and in accordance with the customary practices of the eligible institution for non-IOLTA customers. No other fees or service charges may be deducted from the interest or dividends earned on an IOLTA account. Unless and until the State Bar enacts regulations exempting from compliance with subdivision (a) of Section 6211 those accounts for which maintenance fees exceed the interest or dividends paid, an eligible institution may deduct the fees and service charges in excess of the interest or dividends paid on an IOLTA account from the aggregate interest and dividends remitted to the State Bar. Fees and service charges other than reasonable fees shall be the sole responsibility of, and may only be charged to, the attorney or law firm maintaining the IOLTA account. Fees and charges shall not be assessed against or deducted from the principal of any IOLTA account. It is the intent of the Legislature that the State Bar develop policies so that eligible institutions do not incur uncompensated administrative costs in adapting their systems to comply with the provisions of Chapter 422 of the Statutes of 2007 or in making investment products available to IOLTA members.

(d) The attorney or law firm shall report IOLTA account compliance and all other IOLTA account information required by the State Bar in the manner specified by the State Bar.

(e) The eligible institution shall be directed to do all of the following:

(1) To remit interest or dividends on the IOLTA account, less reasonable fees, to the State Bar, at least quarterly.

(2) To transmit to the State Bar with each remittance a statement showing the name of the attorney or law firm for which the remittance is sent, for each account the rate of interest applied or dividend paid, the amount and type of fees deducted, if any, and the average balance for each account for each month of the period for which the report is made.

(3) To transmit to the attorney or law firm customer at the same time a report showing the amount paid to the State Bar for that period, the rate of interest or dividend applied, the amount of fees and service charges deducted, if any, and the average daily account balance for each month of the period for which the report is made.

(f) An eligible institution has no affirmative duty to offer or make investment products available to IOLTA customers. However, if an eligible institution offers or makes investment products available to non-IOLTA customers, in order to remain an IOLTA-eligible institution, it shall make those products available to IOLTA customers or pay an interest rate on the IOLTA deposit account that is comparable to the rate of return or the dividends generally paid on that investment product for similar customers meeting the same minimum balance and other requirements applicable to the investment product. If the eligible institution elects to pay that higher interest

rate, the eligible institution may subject the IOLTA deposit account to equivalent fees and charges assessable against the investment product.

(Amended by Stats. 2009, Ch. 129, Sec. 1. Effective January 1, 2010.)

6213. As used in this article:

(a) "Qualified legal services project" means either of the following:

(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

(c) "Recipient" means a qualified legal services project or support center receiving financial assistance under this article.

(d) "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.

(e) "Fee generating case" means a case or matter that, if undertaken on behalf of an indigent person by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from the opposing party. A case shall not be considered fee generating if adequate representation is unavailable and any of the following circumstances exist:

(1) The recipient has determined that free referral is not possible because of any of the following reasons:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the referral service nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of the type that attorneys in private practice in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(f) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (P.L. 93-355; 42 U.S.C. Sec. 2996 et seq.).

(g) "Older Americans Act" means the Older Americans Act of 1965, as amended (P.L. 89-73; 42 U.S.C. Sec. 3001 et seq.).

(h) "Developmentally Disabled Assistance Act" means the Developmentally Disabled Assistance and Bill of Rights Act, as amended (P.L. 94-103; 42 U.S.C. Sec. 6001 et seq.).

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the federal Social Security Act, or payments under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "IOLTA account" means an account or investment product established and maintained pursuant to subdivision (a) of Section 6211 that is any of the following:

- (1) An interest-bearing checking account.
- (2) An investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money market fund.
- (3) An investment product authorized by California Supreme Court rule or order.

A daily financial institution repurchase agreement shall be fully collateralized by United States Government Securities or other comparably conservative debt securities, and may be established only with any eligible institution that is "well-capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money market fund shall be invested solely in United States Government Securities or repurchase agreements fully collateralized by United States Government Securities or other comparably conservative debt securities, shall hold itself out as a "money market fund" as that term is defined by federal statutes and regulations under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), and, at the time of the investment, shall have total assets of at least two hundred fifty million dollars (\$250,000,000).

(k) "Eligible institution" means either of the following:

- (1) A bank, savings and loan, or other financial institution regulated by a federal or state agency that pays interest or dividends in the IOLTA account and carries deposit insurance from an agency of the federal government.
- (2) Any other type of financial institution authorized by the California Supreme Court.

(Amended by Stats. 2010, Ch. 328, Sec. 14. Effective January 1, 2011.)

6214. (a) Projects meeting the requirements of subdivision (a) of Section 6213 which are funded either in whole or part by the Legal Services Corporation or with Older American Act funds shall be presumed qualified legal services projects for the purpose of this article.

(b) Projects meeting the requirements of subdivision (a) of Section 6213 but not qualifying under the presumption specified in subdivision (a) shall qualify for funds under this article if they meet all of the following additional criteria:

- (1) They receive cash funds from other sources in the amount of at least twenty thousand dollars (\$20,000) per year to support free legal representation to indigent persons.
- (2) They have demonstrated community support for the operation of a viable ongoing program.

(3) They provide one or both of the following special services:

(A) The coordination of the recruitment of substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects in California.

(B) The provision of legal representation, training, or technical assistance on matters concerning special client groups, including the elderly, the disabled, juveniles, and non-English-speaking groups, or on matters of specialized substantive law important to the special client groups.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6214.5. A law school program that meets the definition of a "qualified legal services project" as defined in paragraph (2) of subdivision (a) of Section 6213, and that applied to the State Bar for funding under this article not later than February 17, 1984, shall be deemed eligible for all distributions of funds made under Section 6216.

(Added by Stats. 1984, Ch. 784, Sec. 2.)

6215. (a) Support centers satisfying the qualifications specified in subdivision (b) of Section 6213 which were operating an office and providing services in California on December 31, 1980, shall be presumed to be qualified support centers for the purposes of this article.

(b) Support centers not qualifying under the presumption specified in subdivision (a) may qualify as a support center by meeting both of the following additional criteria:

(1) Meeting quality control standards established by the State Bar.

(2) Being deemed to be of special need by a majority of the qualified legal services projects.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6216. The State Bar shall distribute all moneys received under the program established by this article for the provision of civil legal services to indigent persons. The funds first shall be distributed 18 months from the effective date of this article, or upon such a date, as shall be determined by the State Bar, that adequate funds are available to initiate the program. Thereafter, the funds shall be distributed on an annual basis. All distributions of funds shall be made in the following order and in the following manner:

(a) To pay the actual administrative costs of the program, including any costs incurred after the adoption of this article and a reasonable reserve therefor.

(b) Eighty-five percent of the funds remaining after payment of administrative costs allocated pursuant to this article shall be distributed to qualified legal services projects. Distribution shall be by a pro rata county-by-county formula based upon the number of persons whose income is 125 percent or less of the current poverty threshold per county. For the purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures from the United States Department of Commerce, Bureau of the Census. Projects from more than one county may pool their funds to operate a joint, multicounty legal services project serving each of their respective counties.

(1) (A) In any county which is served by more than one qualified legal services project, the State Bar shall distribute funds for the county to those projects which apply on a pro rata basis, based upon the amount of their total budget expended in the prior year for legal services in that county as compared to the total expended in the prior year for legal services by all qualified legal services projects applying therefor in the county. In determining the amount of funds to be allocated to a qualified legal services project specified in paragraph (2) of subdivision (a) of Section 6213, the State Bar shall recognize only expenditures attributable to the representation of indigent persons as constituting the budget of the program.

(B) The State Bar shall reserve 10 percent of the funds allocated to the county for distribution to programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 and which perform the services described in subparagraph (A) of paragraph (3) of Section 6214 as their principal means of delivering legal services. The State Bar shall distribute the funds for that county to those programs which apply on a pro rata basis, based upon the amount of their total budget expended for free legal services in that county as compared to the total expended for free legal services by all programs meeting the standards of subparagraph (A) of paragraph (3) and paragraphs (1) and (2) of subdivision (b) of Section 6214 in that county. The State Bar shall distribute any funds for which no program has qualified pursuant hereto, in accordance with the provisions of subparagraph (A) of paragraph (1) of this subdivision.

(2) In any county in which there is no qualified legal services projects providing services, the State Bar shall reserve for the remainder of the fiscal year for distribution the pro rata share of funds as provided for by this article. Upon application of a qualified legal services project proposing to provide legal services to the indigent of the county, the State Bar shall distribute the funds to the project. Any funds not so distributed shall be added to the funds to be distributed the following year.

(c) Fifteen percent of the funds remaining after payment of administrative costs allocated for the purposes of this article shall be distributed equally by the State Bar to qualified support centers which apply for the funds. The funds provided to support centers shall be used only for the provision of legal services within California. Qualified support centers that receive funds to provide services to qualified legal services projects from sources other than this

article, shall submit and shall have approved by the State Bar a plan assuring that the services funded under this article are in addition to those already funded for qualified legal services projects by other sources.

(Amended by Stats. 1984, Ch. 784, Sec. 3.)

6217. With respect to the provision of legal assistance under this article, each recipient shall ensure all of the following:

- (a) The maintenance of quality service and professional standards.
- (b) The expenditure of funds received in accordance with the provisions of this article.
- (c) The preservation of the attorney-client privilege in any case, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to indigent persons.
- (d) That no one shall interfere with any attorney funded in whole or in part by this article in carrying out his or her professional responsibility to his or her client as established by the rules of professional responsibility and this chapter.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6218. All legal services projects and support centers receiving funds pursuant to this article shall adopt financial eligibility guidelines for indigent persons.

(a) Qualified legal services programs shall ensure that funds appropriated pursuant to this article shall be used solely to defray the costs of providing legal services to indigent persons or for such other purposes as set forth in this article.

(b) Funds received pursuant to this article by support centers shall only be used to provide services to qualified legal services projects as defined in subdivision (a) of Section 6213 which are used pursuant to a plan as required by subdivision (c) of Section 6216, or as permitted by Section 6219.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

6219. Qualified legal services projects and support centers may use funds provided under this article to provide work opportunities with pay, and where feasible, scholarships for disadvantaged law students to help defray their law school expenses.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6220.](#) Attorneys in private practice who are providing legal services without charge to indigent persons shall not be disqualified from receiving the services of the qualified support centers.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6221.](#) Qualified legal services projects shall make significant efforts to utilize 20 percent of the funds allocated under this article for increasing the availability of services to the elderly, the disabled, juveniles, or other indigent persons who are members of disadvantaged and underserved groups within their service area.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6222.](#) A recipient of funds allocated pursuant to this article annually shall submit a financial statement to the State Bar, including an audit of the funds by a certified public accountant or a fiscal review approved by the State Bar, a report demonstrating the programs on which they were expended, a report on the recipient's compliance with the requirements of Section 6217, and progress in meeting the service expansion requirements of Section 6221.

The Board of Trustees of the State Bar shall include a report of receipts of funds under this article, expenditures for administrative costs, and disbursements of the funds, on a county-by-county basis, in the annual report of State Bar receipts and expenditures required pursuant to Section 6145.

(Amended by Stats. 2011, Ch. 417, Sec. 60. Effective January 1, 2012.)

[6223.](#) No funds allocated by the State Bar pursuant to this article shall be used for any of the following purposes:

- (a) The provision of legal assistance with respect to any fee generating case, except in accordance with guidelines which shall be promulgated by the State Bar.
- (b) The provision of legal assistance with respect to any criminal proceeding.
- (c) The provision of legal assistance, except to indigent persons or except to provide support services to qualified legal services projects as defined by this article.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6224.](#) The State Bar shall have the power to determine that an applicant for funding is not qualified to receive funding, to deny future funding, or to terminate existing funding because the recipient is not operating in compliance with the requirements or restrictions of this article.

A denial of an application for funding or for future funding or an action by the State Bar to terminate an existing grant of funds under this article shall not become final until the applicant or recipient has been afforded reasonable notice and an opportunity for a timely and fair hearing. Pending final determination of any hearing held with reference to termination of funding, financial assistance shall be continued at its existing level on a month-to-month basis. Hearings for denial shall be conducted by an impartial hearing officer whose decision shall be final. The hearing officer shall render a decision no later than 30 days after the conclusion of the hearing. Specific procedures governing the conduct of the hearings of this section shall be determined by the State Bar pursuant to Section 6225.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6225.](#) The Board of Trustees of the State Bar shall adopt the regulations and procedures necessary to implement this article and to ensure that the funds allocated herein are utilized to provide civil legal services to indigent persons, especially underserved client groups such as but not limited to the elderly, the disabled, juveniles, and non-English-speaking persons.

In adopting the regulations the Board of Trustees shall comply with the following procedures:

(a) The board shall publish a preliminary draft of the regulations and procedures, which shall be distributed, together with notice of the hearings required by subdivision (b), to commercial banking institutions, to members of the State Bar, and to potential recipients of funds.

(b) The board shall hold at least two public hearings, one in southern California and one in northern California where affected and interested parties shall be afforded an opportunity to present oral and written testimony regarding the proposed regulations and procedures.

(Amended by Stats. 2011, Ch. 417, Sec. 61. Effective January 1, 2012.)

[6226.](#) The program authorized by this article shall become operative only upon the adoption of a resolution by the Board of Trustees of the State Bar stating that regulations have been adopted pursuant to Section 6225 which conform the program to all applicable tax and banking statutes, regulations, and rulings.

(Amended by Stats. 2011, Ch. 417, Sec. 62. Effective January 1, 2012.)

[6227.](#) Nothing in this article shall create an obligation or pledge of the credit of the State of California or of the State Bar of California. Claims arising by reason of acts done pursuant to this article shall be limited to the moneys generated hereunder.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

[6228.](#) If any provision of this article or the application thereof to any group or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Added by Stats. 1981, Ch. 789, Sec. 1.)

TITLE 3. PROGRAMS AND SERVICES

Adopted July 2007

DIVISION 5. PROVIDERS OF PROGRAMS AND SERVICES

Chapter 2. Legal Services Trust Fund Program

Article 1. Administration of the Legal Services Trust Fund Program

Rule 3.660 Legal Services Trust Fund Commission

The Board of Trustees of the State Bar of California has established a Legal Services Trust Fund Commission ("Commission") to administer, in accordance with legal requirements and these rules ("Trust Fund Requirements"), revenue from IOLTA (Interest on Lawyers' Trust Accounts) and other funds remitted to the Legal Services Trust Fund Program of the State Bar.

Rule 3.660 adopted effective March 6, 2009; amended effective January 1, 2012.

Rule 3.661 Duties of the Legal Services Trust Fund Commission

- (A) The Commission must determine an applicant's eligibility for grants and notify each grant applicant that its application has been approved or denied. If the Commission tentatively approves an application, it issues a notice of the grant award, including the tentative allocation. If the notice requires submission of additional information, the Commission considers the application incomplete pending receipt of the information.
- (B) The Commission must monitor and evaluate a recipient's compliance with Trust Fund Requirements and grant terms. The evaluation may be based on
 - (1) application information, grant reports, and additional information reasonably necessary to determine compliance with Trust Fund Requirements;
 - (2) reasonable site visits scheduled upon adequate notice;
 - (3) an evaluation of a recipient by an impartial third party designated and funded by the Commission; or
 - (4) information from other sources, such as an evaluation provided by the Legal Services Corporation or other funding entity.
- (C) The Standards for the Provision of Civil Legal Aid adopted by the American Bar Association's House of Delegates on August 7, 2006, as limited by the general introduction to the standards, are the guidelines used by the Commission in

approving the quality control procedures and reviewing and evaluating the maintenance of quality service and professional standards of applicant and recipient programs. With due notice, the Commission may also rely on other standards that are consistent with law and generally accepted access to justice principles in the legal aid community.

- (D) The Commission may terminate a grant for noncompliance or take other action in accordance with Article 4 of this chapter.

Rule 3.661 adopted effective March 6, 2009.

Rule 3.662 Legal Services Trust Fund Commission membership and terms

The Commission consists of twenty-one voting members and three nonvoting judicial advisors. At least two members must be or have been within five years of appointment indigent persons as defined by statute.¹ No employee or independent contractor acting as a consultant to a potential recipient of Trust Fund grants may be appointed to the Commission.

- (A) The Board of Trustees appoints fourteen voting members, ten of whom must be licensees of the State Bar and four of whom must be public members who have never been admitted to the practice of law in any United States jurisdiction. Each member serves at the pleasure of the Board for a term of three years that begins and ends at the State Bar annual meeting. Upon completion of an initial term, the Board may reappoint a member for a second three-year term. The Board may extend an initial or second term by one or two years to allow a member to serve as chair or vice-chair.
- (B) The chair of the Judicial Council appoints seven voting members, five of whom must be licensees of the State Bar and two of whom must be public members, as well as three nonvoting judges, one of whom must be an appellate justice. Each member serves at the pleasure of the chair of the Judicial Council for a term of three years.
- (C) The Board of Trustees appoints voting members as chair and vice-chair.

Rule 3.662 adopted effective March 6, 2009; amended effective January 1, 2012; amended effective September 14, 2014; amended effective January 25, 2019.

Article 2. Construction of certain statutory provisions

Rule 3.670 Operation in California by qualified entities

- (A) A qualified legal services project is required by statute to be a nonprofit corporation operating exclusively in California or a program operated exclusively

¹ Business & Professions Code § 6213(d).

in California by a nonprofit law school accredited by the State Bar.² A qualified legal services project that is a California nonprofit corporation with operations outside California may be considered as meeting the statutory requirement if it otherwise meets Trust Fund Requirements and expends Trust Fund Program grant funds only in California.

- (B) A qualified support center is required by statute to be an incorporated nonprofit legal services center that provides through an office in California a significant level of legal support services to qualified legal services projects on a statewide basis.³

Rule 3.670 adopted effective March 6, 2009.

Rule 3.671 Primary purpose and function

- (A) A qualified legal services project is required by statute to have as its primary purpose and function providing legal services without charge to indigent persons.⁴ A qualified legal services project applying for Trust Fund Program funds is presumed to have such a purpose and function if 75% or more of the budget for the fiscal year for which it is seeking funds is designated to provide free legal services to indigents, and 75% or more of its expenditures for the most recent reporting year were incurred for such services. The calculation of 75% of expenditures may include a reasonable share of administrative and overhead expenses.
- (B) A qualified support center is required by statute to have as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge.⁵ A qualified support center applying for funds is presumed to have such a primary purpose and function if 75% or more of its budget for the fiscal year for which it is seeking funds is designated to provide such support services, and 75% or more of its expenditures for the most recent reporting year were incurred for such services.
- (C) A qualified legal services project or qualified support center that does not meet the 75% test may nevertheless apply, provided that the applicant can satisfactorily demonstrate that it meets the primary purpose and function requirement by other means.

Rule 3.671 adopted effective March 6, 2009.

² Business & Professions Code § 6213(a).

³ Business & Professions Code § 6213(b).

⁴ Business & Professions Code § 6213(a)(1).

⁵ Business & Professions Code § 6213(b).

Rule 3.672 Delivery of legal services

- (A) “Legal services” include all professional services provided by a licensee of the State Bar and similar or complementary services of a law student or paralegal under the supervision and control of a licensee of the State Bar in accordance with law.⁶
- (B) “Legal support services” required by statute to be provided by a qualified support center include but are not limited to
 - (1) professional services to qualified legal services projects; and
 - (2) the direct provision of legal services to an indigent client of a qualified legal services project, provided the services are provided directly to the client
 - (a) as co-counsel with an attorney employed or recruited by a qualified legal services project; or
 - (b) at the request of an attorney employed or recruited by a qualified legal services project that is unable to assist the client.⁷

Rule 3.672 adopted effective March 6, 2009; amended effective January 25, 2019.

Rule 3.673 Permissible uses of funds

- (A) A qualified legal services project or qualified support center must use funds received under Business and Professions Code Section 6216 to provide legal assistance to indigent persons or qualified legal services projects as defined by statute.⁸ Reasonable administrative expenditures and overhead required to deliver such services meet the statutory requirement.
- (B) No recipient may use an allocation made under Business and Professions Code Section 6216 to provide services in a fee-generating case, except as described in Business and Professions Code Section 6213(e)(1)-(4). If a recipient determines that a case is not fee generating because it qualifies for a statutory exemption,⁹ the recipient must maintain records reflecting the facts that led to that conclusion and any action taken to confirm it. Client reimbursements of nominal costs or expenses are not considered fees. If attorney fees are generated in cases funded by Trust Fund Program grants, the fees must be used only for purposes

⁶ Business & Professions Code § 6213(a).

⁷ Business & Professions Code § 6213(b).

⁸ Business & Professions Code §§ 6216 and 6223.

⁹ Business & Professions Code § 6213(e)(1).

permitted by statute.¹⁰ Recipients must maintain complete records of all such fees.

Rule 3.673 adopted effective March 6, 2009.

Article 3. Applications and distributions

Rule 3.680 Application for Trust Fund Program grants

To be considered for a Trust Fund Program grant, a qualified legal services project or qualified support center seeking a Trust Fund Program grant must submit a timely and complete application for funding in the manner prescribed by the Commission. The applicant must agree to use any grant in accordance with grant terms and legal requirements.

- (A) A qualified legal services project must meet statutory criteria.
- (B) A qualified support center must agree to offer support services in two or more of the following ways: consultation, representation, information services, and training. The board of directors of the support center must establish priorities for providing such services after consulting with legal services attorneys and other relevant stakeholders.
- (C) A support center not in existence prior to December 31, 1980 must demonstrate that it is deemed to be of special need by a majority of qualified legal services projects in accordance with Trust Fund Program procedures. Upon request, the Commission must make available to the applicant a list of all the names and addresses of qualified legal services projects.
- (D) A nonprofit corporation that believes it meets the criteria for a qualified legal services project and qualified support center may submit two applications, one as a project and one as a support center, indicating in each application whether it is to be considered the primary or secondary application. The Commission will consider the secondary application only if the primary application is not approved. No applicant may receive a grant as a qualified legal services project and as a qualified support center.
- (E) An application must include
 - (1) an audited financial statement by an independent certified public accountant for the fiscal year that concluded during the prior calendar year. A financial review in lieu of an audited financial statement may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines;

¹⁰ Business & Professions Code § 6223.

- (2) information about the maintenance of quality service and professional standards and how the applicant maintains standards, such as internal quality control and review procedures; experience and educational requirements of attorneys and paralegals; supervisory structure, procedures, and responsibilities; job descriptions and current salaries for all filled and unfilled professional and management positions; and fiscal controls and procedures.
- (3) a budget and budget narrative, which must be submitted within thirty days of receipt of a notice of tentative allocation, explaining how funds will be used to provide civil legal services to indigent persons, especially underserved client groups such as, the elderly, the disabled, juveniles, and non-English-speaking persons within the applicant's service area; and
- (4) information about program activities, such as substantive practice areas, extent and complexity of services, a summary of litigation, and populations served.

Rule 3.680 adopted effective March 6, 2009; amended effective January 25, 2019.

Rule 3.681 Duties of Trust Fund Program grant recipient

The recipient of a Trust Fund Program grant must

- (A) use the grant in accordance with the terms of the grant agreement and Trust Fund Requirements;
- (B) maintain complete financial records, including budgets, to account for the receipt and expenditure of all grant funds and all income earned by a grant recipient from grant-supported activities, such as income from fees for services (including attorney fee awards and reimbursed costs), training, sales and rentals of real or personal property, and interest earned on grant amounts;
- (C) maintain records for five years after completion of services to a client regarding the eligibility of the client and promptly provide such records to the Commission for inspection upon demand;
- (D) annually submit information that describes, in the manner required by the Commission, the grant recipient's maintenance of quality service and professional standards and compliance with program requirements and, as requested by the Commission,
 - (1) information for evaluative purposes about program activities in the prior grant year; and
 - (2) information to enhance the delivery system of legal services;

- (E) cooperate regarding any reasonable site visit;
- (F) submit timely quarterly financial reports and any other information reasonably required by the Commission; and
- (G) pay any noncompliance fees set forth in the Schedule of Charges and Deadlines for processing documents that are substantially noncompliant with Trust Fund Requirements or that are late without permission.

Rule 3.681 adopted effective March 6, 2009.

Rule 3.682 No abrogation of legal or professional responsibilities

Nothing in these rules may limit or impair in any way the professional responsibility of an attorney to provide a client with legal services appropriate to the client's needs. Trust Fund Program applicants and recipients and their staffs; volunteers; consultants; and clients and prospective clients are entitled to all rights and privileges under the law. Nothing in these rules may be interpreted to require a grant applicant or recipient to violate the law.¹¹

Rule 3.682 adopted effective March 6, 2009.

Article 4. Requests for review and complaint process

Rule 3.690 Receipt of document

For purposes of this article, receipt of a document mailed by staff or the Commission is deemed to be the earlier of either five days after the date of mailing or is the actual time of receipt when staff or the Commission delivers a document physically by courier or otherwise.

Rule 3.690 adopted effective March 6, 2009.

Rule 3.691 Denial or termination of funding

- (A) The Commission has the authority to deny an application for initial funding or for renewal of funding, or to terminate existing funding in accordance with law and these rules.¹² The applicant or grant recipient is entitled to written notice of the denial or termination.
- (B) The applicant or grant recipient may request reconsideration by the Commission.

¹¹ Business & Professions Code § 6217(d).

¹² Business & Professions Code § 6224.

- (1) The request must be provided to the Commission in writing within thirty days of receipt of the notice of denial or termination of funding. The request may include additional information.
 - (2) The Commission may affirm its decision, modify its decision, or schedule an informal conference to be held within ninety days of receipt of the request. The applicant or recipient is entitled to written notice of the date, time and place of the conference, and must have an opportunity to present information at the conference.
 - (3) Unless all parties agree otherwise, the Commission must mail or otherwise deliver a written decision within sixty days of the conference.
- (C) Within thirty days of receipt of written notice of the Commission decision on the request for reconsideration, the applicant or grant recipient may file a request for review by the State Bar Court. The request must be submitted to the State Bar Court in accordance with the Rules of Procedure of the State Bar on Legal Services Trust Fund Proceedings. Pending a final decision by the State Bar Court, a current grant recipient must continue to receive funding.
- (D) The decision of the Commission on the request for reconsideration is final if the applicant or grant recipient fails to file a timely request for review by the State Bar Court.

Rule 3.691 adopted effective March 6, 2009.

Rule 3.692 Complaints

- (A) Any person or entity may file a formal written complaint that a grant recipient fails to meet Trust Fund Requirements.
- (B) Staff must provide a copy of a formal written complaint to the grant recipient whom it concerns and attempt to resolve the complaint. If the complaint is not resolved within ninety days after staff receives the complaint, staff must provide the Commission, complainant, and recipient with a written report of its efforts to resolve the complaint and recommendation of what action, if any, is appropriate.
- (C) Within thirty days of receipt of the staff report, the complainant and grant recipient may provide the Commission with a written response that may include additional information and may request review by the Commission.
- (D) Within a reasonable time, the Commission or a committee of its members appointed by the Commission must consider the staff report and any response. The Commission or committee must then dismiss the complaint or schedule an informal conference. The complainant and grant recipient are entitled to written notice of a dismissal or the date, time, and place of the conference.

- (E) At the informal conference, the staff member who conducted the investigation must be present barring extenuating circumstances. The complainant and grant recipient must have an opportunity to present information. The Commission must issue a written notice dismissing the complaint; requiring corrective action; or terminating funds. The complainant and recipient are entitled to written notice of the decision.
- (F) If the Commission or committee decides to dismiss the complaint, the decision is final.
- (G) If the Commission or committee decides to terminate funding, within thirty days of receipt of written notice of the decision the grant recipient may file a request for review by the State Bar Court. The request must be submitted to the State Bar Court in accordance with the Rules of Procedure of the State Bar on Legal Services Trust Fund Proceedings. Pending a final decision by the State Bar Court, a current grant recipient must continue to receive funding.
- (H) The decision of the Commission to terminate funding is final if the grant recipient fails to file a timely request for review by the State Bar Court.

Rule 3.692 adopted effective March 6, 2009.

Legal Services Trust Fund Program

Eligibility Guidelines

LEGAL SERVICES PROJECTS ONLY

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1617

Legal Services Trust Fund Program Eligibility Guidelines

Table of Contents

1. Requirements for All Applicants	1
1.1 Agreement Limiting Use of Funds	1
1.2 Budget and Budget Narrative	2
1.3 Required Assurance	3
1.4 Requests for Further Information	4
2. Requirements for Legal Services Projects	4
A. Mandatory Requirements for All Legal Services Projects	
2.1 Nonprofit California Corporation	4
2.2 Operated Exclusively in California	5
2.3 Primary Purpose and Function	5
2.4 Quality Control	9
B. Further Elective Requirements	
2.5 LSC or OAA-Funded Projects Presumed Eligible	10
2.6 Non-Presumption Legal Services Projects	10
2.6.1 \$20,000 Annual Cash Support	10
2.6.2 Demonstrated Community Support	11
2.6.3 Provision of Special Services	11
C. Information Necessary to Compute Amount of Allocation	
2.7 Financial Statements	12
2.8 Counties Served	14
2.9 <i>Pro Bono</i> Projects	15

Legal Services Trust Fund Program Eligibility Guidelines

The Legal Services Trust Fund Program Eligibility Guidelines were designed as a brief statement of factors governing eligibility for an allocation under the Legal Services Trust Fund Program. The Guidelines, together with their Commentary, are intended to incorporate provisions found in the statute (Business and Professions Code §6210, et seq.) and at Title 3, Rules 3.660-3.692 of the Rules of the State Bar of California.

Commentary follows each guideline and is designed to further assist you in seeking an allocation under the Legal Services Trust Fund Program. Bracketed references are to the Business and Professions Code (B&P Code) and Rules of the State Bar.

Requirements for All Applicants

1. **To be considered for a Legal Services Trust Fund Program grant, an applicant must submit a timely and complete application for funding in the manner prescribed by the Legal Services Trust Fund Commission (the Commission). To qualify for an allocation under the Legal Services Trust Fund Program, an applicant must be either:**
 - a. **a qualified legal services project (Legal Services Projects Guidelines 2-2.9); or**
 - b. **a qualified support center (Support Centers Guidelines 2-2.9).**

A single applicant may not qualify as both a legal services project and a support center. [Rule 3.680(D)]

Commentary:

The main distinction between a legal services project and a support center is found in the primary purpose of the organization. Compare Legal Services Projects Guideline 2.3 with Support Centers Guideline 2.3. You must indicate on your application the status under which you wish to be considered. You may complete the applications for both a legal services project and a support center. If you qualify in the category of first preference, you will not be considered in the second category. If you do not qualify in the category of your first choice, you will be considered for eligibility under the category of your second choice, if your primary purpose and function qualifies you for that category. [Rule 3.671(A)-(C)]

- 1.1. **All applicants must include with their applications an assurance that the applicant will use the funds allocated from the Legal Services Trust Fund Program for the purposes set forth in §§6210-6228 of the Business and Professions Code.**

Commentary:

The application includes an Assurances form. Execution of that form will satisfy the requirements of Guidelines 1.1 - 1.3.

- 1.2. Within 30 days after notice of a tentative allocation from the Commission, the applicant must submit a budget and budget narrative for the expenditure of the allocation, including but not limited to:**
- 1.2.1. an explanation of how funds shall be utilized to provide civil legal services to indigent persons; and**
 - 1.2.2. for a qualified legal services project, a description of how the project will make significant efforts to use 20 percent of the funds allocated to increase services to disadvantaged and underserved client groups such as (but not limited to) the elderly, the disabled, juveniles and non-English-speaking persons within the project's service area. [B&P Code §6221; Rule 3.680(E)(3)]**

Commentary:

Do not submit a budget with your application. Once the Commission has found your program tentatively eligible and has approved an allocation to your program, you will be notified of a tentative grant allocation. You must then prepare a budget and budget narrative in conformance with Guideline 1.2, explaining your intended use of the funds. This budget and budget narrative will be reviewed by the Commission for conformance with the statute prior to disbursement of funds.

The budget and budget narrative should identify how the proposed allocation will aid in providing civil legal services to indigent persons. The narrative should describe the expected increased benefit to indigent persons as a result of the allocation.

The statute requires that qualified legal services projects make significant efforts to use 20 percent of the allocated funds to increase the availability of service to the elderly, the disabled, juveniles, non-English-speaking persons, or other indigent persons who are members of disadvantaged and underserved groups within your service area. Your narrative should describe specifically how you intend to use 20 percent or more of the proposed allocation to increase services to such disadvantaged and underserved groups.

One method by which a project may demonstrate its use of 20 percent of allocated funds to increase services to disadvantaged and underserved client groups is to enter into subcontracts specifically utilizing 20 percent of the funds for legal services to such client groups.

If you do not demonstrate "significant efforts" through the use of subcontracts, your budget narrative should describe the clients presently served by your project, the additional clients from disadvantaged and underserved client groups that will be served in the future through the use of 20 percent of the funds allocated, and your quantifiable objectives for increased services to such groups.

If your legal services project is part of a corporation that has activities outside California, the proposed budget and budget narrative must explain how the proposed allocation will be used within the state of California, as distinguished

from an increase in the total multi-state budget. The statute prohibits the use of allocated funds outside the state of California.

If your project provides both, legal services and other types of services, your budget and budget narrative must show that the allocation will be used solely for legal services. If your project provides services in both civil and criminal matters, your proposed budget and budget narrative must show that the allocation will be used solely for civil matters. If your project serves some persons who do not fall within the statutory definition of indigent persons (Commentary 2.3.4), your proposed budget and budget narrative must show that the allocation will be used solely for persons who are indigent within that definition. [B&P Code §§6213(d), 6218(a), 6221; Rule 3.680(E)(3)]

If you receive an allocation for more than one county, the budget and budget narrative must show that each allocation will be used to provide services to clients in the county for which it is made.

1.3. All applications must include an assurance that the applicant:

Commentary:

See Commentary 1.1 above. [B&P Code §§6210, 6217, 6221; Rule 3.682]

- 1.3.1. at all times will honor the attorney-client privilege and will uphold the integrity of the adversary process; and**
- 1.3.2. will not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Legal Services Trust Fund Program; and**
- 1.3.3. does not discriminate on the basis of race, color, national origin, religion, sex, handicap, or age.**

Commentary:

The Legal Services Trust Fund Commission recognizes that certain applicants will concentrate on providing legal services to members of specific disadvantaged and underserved groups within their service area, such as elderly, disabled, juveniles, or non-English-speaking persons. The statute is intended to facilitate the provision of free legal services to such disadvantaged and underserved client groups. [B&P Code §§6210 and 6221] The Commission therefore will not regard Guideline 1.3.3 as violated merely by the fact that services are concentrated on (or limited to) specific disadvantaged and underserved client groups within the meaning of Business and Professions Code §§6210 and 6221, so long as the basis for such concentration and limitation is reasonably designed to benefit distinct disadvantaged and underserved groups. The certification required by Guideline 1.3.3 does prohibit any discrimination within the targeted client groups, and prohibits any discrimination on matters other than the selection of eligible clients.

- 1.4. If the Commission or staff requests any further information relating to an applicant's eligibility, or related to the amount of the allocation under the Legal Services Trust Fund Program, the applicant must supply that information. However, the Commission is not required to notify applicants if their initial application fails to include information sufficient to demonstrate eligibility. Failure to provide information necessary to the Commission's decisions on eligibility or eligible expenditures (or failure to supply requested information relevant to those decisions) will be grounds for denial of eligibility, or for refusal to recognize part of the applicant's expenditures within the allocation formula. [Rules 3.680(E) and 3.691(A)]

Requirements for Legal Services Projects

2. To be a qualified legal services project, the applicant must meet (a) each of the requirements of Guidelines 1.1-1.3 above, and (b) each of the following requirements of Guidelines 2.1-2.4, and (c) the requirements of either Guideline 2.5 or 2.6. For the Commission to determine the amount of funds to which each qualified legal services project is entitled from the Legal Services Trust Fund Program, applicants must also submit the information required in Guidelines 2.7 and 2.8 below. Applicants that meet the requirements of Guideline 2.9 below (*pro bono* programs) will be entitled to additional funds from the Legal Services Trust Fund Program.

Commentary:

A qualified legal services project must meet: (1) the requirements applicable to all applicants (see Guidelines 1.1-1.3); (2) the mandatory requirements of 2.1-2.4 applicable to all legal services projects; and (3) either the eligibility presumption described by 2.5 or the requirements for annual cash funds, community support, and special services described by 2.6. In addition to this eligibility information, the applicant must submit the information required in 2.7 and 2.8 in order that the Commission may determine the amount of the allocation. If an applicant recruits attorneys in private practice as its principal means of delivering legal services, it may qualify for an additional allocation under 2.9 below.

- 2.1. The applicant must be a California nonprofit corporation.

Commentary:

In order to demonstrate your status as a California corporation, copies of the Articles of Incorporation certified by the California Secretary of State and a current Certificate of Status from the California Secretary of State showing that the corporation is in good legal standing must be filed with the Legal Services Trust Fund Program. To demonstrate your nonprofit status, copies of (1) the determination letter from the Internal Revenue Service granting your application for exemption from the appropriate provisions of subchapter (f) of Chapter 1 of the Internal Revenue Code of 1954, as amended and (2) the determination letter from the State Franchise Tax Board granting your application for exemption from the appropriate section of the California Revenue and Taxation Code must be filed with the Legal Services Trust Fund Program. If you have not received such determination letter(s), attach

copy(ies) of your application(s) for exemption, together with an explanation of its/their status. [B&P Code §6213(a)(1); Rules 3.670(A), 3.680(A)]

If you are part of a law school, submit the information described above with respect to the law school. The school must be a nonprofit law school accredited by the State Bar of California, and your program must be an identifiable unit of the school. [B&P Code §§6213(a)(2), 6214.5; Rule 3.670(A)]

2.2. The organization must operate exclusively in California. An applicant that is part of a corporation that conducts other activities outside California can meet this requirement if all funds granted will be expended in California.

Commentary:

Your legal services project must be operated exclusively in California. If you are part of a corporation that conducts activities outside California, you must assure the Commission that all money granted from the Legal Services Trust Fund Program will be expended exclusively in California. If your corporation conducts activities outside California, explain the nature of those activities and how you propose to segregate funds allocated under the Legal Services Trust Fund Program to assure that they will be expended solely in California.

2.3. The application must demonstrate through objective information that the organization:

Commentary:

Objective information must be provided to assure that you meet the definitional provisions of Guideline 2.3. Such information must describe the organization specifically and factually, using quantitative information where needed, to demonstrate that it meets each of the requirements of Guidelines 2.3.1-2.3.5. [B&P Code §6213(a); Rules 3.670(A), 3.671(A), 3.680(E)(2)]

Quantitative information that may demonstrate how that organization's services meet the requirements includes the following: numbers of clients who were served during the previous year; hours of time spent on different kinds of services, or on services to different clients in the previous year; accounting records for expenses incurred in providing different kinds of services or services to different clients during the previous year.

If you rely on estimates to demonstrate that you have met these requirements, you must demonstrate that the estimates were derived by a method that is reasonably related to the actual expenditure of funds, and explain the basis of the estimates.

2.3.1. provides civil legal services

Commentary:

You must provide legal services within the definition of Rule 3.672(A). That rule provides that "legal services include all professional services provided by a member of the State Bar, and similar or complementary services of a law student or a paralegal under the supervision and control of a member of the State Bar in accordance with law." If your organization provides services in

addition to legal services, your application must describe those other activities, identify the percentage of the overall services provided that are not legal services, and state the basis by which you computed that percentage. [Rule 3.671(A)]

2.3.2. without charge

Commentary:

Payments by clients for costs and expenses or a processing fee of \$20 or less shall not be considered a “charge” for legal services, so long as the processing fee is administered so that it does not prevent indigent persons from receiving services. If you charge a processing fee, you must establish procedures for waiving the fee for all clients who cannot afford it. You must inform prospective clients of the availability of a waiver at the same time and in the same manner that they are informed of the fee, and in a language the client can understand.

If you charge a processing fee, your application must include information about established procedures for waiving the fee for clients who cannot afford it. The maximum of \$10 per processing fee will be regarded as a qualified expenditure.

If you charge some clients amounts in excess of costs, your application must state the percentage of your work in which such charges are made, and the basis for computing that percentage.

If attorneys’ fees are generated through court awards, such fees must be used to provide further civil legal services without charge to indigent persons. [Rule 3.673(B)]

“Costs and expenses” include any out-of-pocket expenses incurred by the organization (or by *pro bono* attorneys recruited by the organization), including recoverable costs of litigation, copying charges, telephone charges, postage charges, and other out-of-pocket expenses normally charged to clients by attorneys in private practice. An applicant may be considered as providing legal services without charge within the meaning of Guideline 2.3.2 in spite of charges to clients for such items. [Rule 3.673(B)]

2.3.3. to persons

Commentary:

You may consider legal services provided to an organization (e.g., an unincorporated association, partnership, or corporation) as services to indigent persons if the organization provides benefits primarily to persons who are indigent as described below in the Commentary on Guideline 2.3.4. In determining whether an organization so qualifies, the Commission will consider at least the following factors: (a) whether the organization is tax exempt under I.R.C. §501(c)(3); (b) the organization’s primary purpose as stated in its bylaws or articles; (c) the number and percentage of indigent persons on the board of directors or principal advisory body of the organization; and (d) the percentage of its members who are indigent persons.

If you provide more than ten percent of your services to organizations (whether qualifying or non-qualifying), your application must identify the five organizations that received the most legal services during the prior calendar year and, for each such organization, supply the information identified above. You need not disclose information protected by the attorney-client privilege. If you provide some portion of your legal services to organizations that do not so qualify, identify the percentage of overall services provided to such non-qualifying organizations, and explain the basis of your computation.

2.3.4. who are indigent

Commentary:

An indigent person is defined by the Business and Professions Code §§6213(d), 6213(g), 6213(h), and 6213(i) as follows:

“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 which 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 §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.”

Your application must state the percentage of your organization’s services that were provided during the previous calendar year to clients who did not fall within this definition. You must adopt written financial eligibility guidelines. If your eligibility criteria includes persons who are not indigent within the definition of §6213(d) above, explain how you determined the percentage of clients served that falls outside the definition. If you did not have written financial eligibility guidelines in the prior year, your application must explain the basis of your computation of percentage and supply objective support for the computation. [B&P Code §§6213(d) and 6218]

If you provide legal services for the benefit of a group or class of persons beyond the specific individuals or organizations who are your clients, you may consider the services as “legal services provided to indigent persons” only if the legal matter is primarily for the benefit of indigent persons.

In determining whether a legal matter is primarily for the benefit of indigent persons, the Commission may consider the following factors and any others that aid in making that determination: (1) the forum in which the matter is being pursued, e.g., courts, administrative agency, legislature, etc.; (2) whether named clients are indigent persons or qualifying organizations (under Commentary 2.3.3 above); (3) in the case of a class action, the definition of the class contained in the complaint and proposed or actual class certification orders; (4) a description of the group of individuals that would benefit from a favorable resolution of the legal matter; (5) whether a majority of those who

would benefit are indigent persons; (6) the relation of the legal issues raised by the matter to the needs of indigent persons; and (7) whether indigent persons are disproportionately impacted by the legal issues raised by the matter.

If legal services for the benefit of a group or class of persons beyond the specific individuals or organizations who are your clients constitute more than ten percent of your legal services, your application must identify the ten such legal matters on which you expended the largest amount of funds in the prior calendar year. For each of the matters so identified in your application, describe who would benefit from the services, state whether the matter is primarily for the benefit of indigent persons and, if so, explain the reasons you reached that conclusion. For any such matter that is primarily for the benefit of indigent persons, your description should include the information listed as items (1) through (7) in the preceding paragraph; you must quantify the percentage of your clients who are indigent persons (or organizations qualifying under Commentary 2.3.3 above) and the percentage of the persons who would benefit from the services who are indigent persons. Explain the basis of this information. You need not disclose information protected by the attorney-client privilege.

If some portion of your legal services are for the benefit of a group or class of persons beyond your specific clients and are not primarily for the benefit of indigent persons, identify the percentage of overall services provided in such matters and explain the basis of your computation.

2.3.5. as the primary purpose and function of the corporation.

Commentary:

Your application must state the net percentage of the corporation's overall expenses that were incurred in the previous calendar year to provide civil legal services without charge to persons who are indigent. You are required to demonstrate the corporation's primary purpose, and not simply the primary purpose of a part of the corporation. (If your project is operated by a law school, see the last section of this Commentary on Guideline 2.3.5.)

If more than 75 percent of the corporation's expenditure budget for the fiscal year for which it is seeking an allocation is designated for the provision of civil legal services without charge to persons who are indigent, and if 75 percent of its expenditures for the most recent reporting year were incurred for such legal services, the corporation will be presumed to meet the primary purpose and function test. In demonstrating your compliance with this 75 percent test, you cannot include the value of donated services. [Rule 3.671(A)]

An applicant not qualifying for the 75 percent presumption may nevertheless apply for an allocation, demonstrating its purpose and function by other means. An applicant not qualifying for the presumption shall state separately each purpose and function of the corporation, and state what percentage of the expenditures in the most recent calendar year, and what percentage of the budget in the upcoming year, are allocated to each of these separate purposes and functions. The application shall further state the basis for these allocations. [Rule 3.671(C)]

In addition to this submission of expenditure and of budget information, primary purpose and function can be additionally supported by historic expenditure information, by the organization's stated purpose in articles, bylaws or policy statements or case priority guidelines, or by the demonstrated track record of the applicant in providing legal services without charge to indigent persons.

An applicant that operated in previous years as a project within an organization providing substantial services other than legal services to indigent persons, or as an entity other than a corporation, but which has since become a separate California nonprofit corporation whose primary purpose and function is the provision of legal services without charge to indigent persons, may establish its status as a qualified legal services project and its proportionate entitlement to funds based upon financial statements which strictly segregate that portion of the organization's expenditures in prior years which were devoted to civil legal services for indigents. Thus, if you are recently incorporated and previously operated as a part of an umbrella organization, you may utilize the expenditures of your predecessor organization so long as financial statements strictly segregate the expenditures for such legal services.

If your legal services program is operated by an accredited nonprofit law school, you are required only to demonstrate the program's primary purpose, and not the corporation's primary purpose. Your program must be operated exclusively in California and the law school must be accredited by the State Bar of California. The program must have operated for at least two years at a cost of at least \$20,000 per year, as an identifiable law school unit with the primary purpose and function of providing civil legal services without charge to indigent persons. The program may meet the primary purpose test according to the 75 percent test described above or by demonstrating its purpose and function through other means described above. [B&P Code §6213(a)(2)]

2.4. The application must include a description of the organization's quality control procedures and standards, including but not limited to the matters described in Guidelines 2.4.1-2.4.4:

Commentary:

The American Bar Association's *Standards for the Provision of Civil Legal Aid* are the quality control standards for the Legal Services Trust Fund Program, pursuant to Business & Professions Code §6225 and Rule 3.661(C). These standards are the State Bar's guidelines for review and approval of applicant and recipient program practices.

If you are already subject to quality control reviews by the Legal Services Corporation or the California Department of Aging, describe the quality control review procedures to which you are subject.

Describe your quality control standards and how compliance with each of the subjects listed in Guidelines 2.4.1-2.4.4 is ensured. The Commission is particularly interested in your standards and procedures regarding supervisorial structure, procedures, and responsibilities. [B&P Code §§6123(a) and 6217(a); Rule 3.680(E)(2)]

- 2.4.1. the minimum experience and education requirements for attorney and paralegal employees;
 - 2.4.2. the current salaries and job descriptions for all filled and unfilled management and professional positions, including paralegal personnel;
 - 2.4.3. the minimum experience and educational requirements for attorney supervisors; and
 - 2.4.4. the supervisory structure, procedures and responsibilities.
- 2.5. Applicants must meet the requirements of this, Guideline 2.5, or the requirements of Guideline 2.6. To meet the requirements of this, Guideline 2.5, the applicant must receive at least some funding either:
- 2.5.1. from a grant made to the organization by the Legal Services Corporation or by an Area Agency on Aging distributing Older Americans Act funds; or
 - 2.5.2. from an approved contract with another organization that is a grant recipient meeting the terms of Guideline 2.5.1.

Commentary:

In order to qualify under Guideline 2.5 (and thereby waiving the requirements of 2.6), you must receive at least some funding either directly from the Legal Services Corporation (or from an Area Agency on Aging) or by contract with an LSC-funded organization (or by a contract with an Area Agency on Aging-funded organization). If your funding is by contract, the contract must have been approved by LSC or by the state or local agency administering the Older Americans Act funds.

Legal Services Corporation is defined in the Business and Professions Code §6213(f) as the Legal Services Corporation established under the Legal Services Corporation Act of 1974 (Public Law 93-355; 42 U.S.C. 2996 and following). *Older Americans Act* is defined in the Business and Professions Code §6213(g) as the Older Americans Act of 1965, as amended (Public Law 89-73; 42 U.S.C. 3001, and following). [B&P Code §§6213(f), 6213(g), 6214(a)]

- 2.6. An applicant that does not meet the requirements of Guideline 2.5 must meet each of the requirements of Guidelines 2.6.1-2.6.3 below:
- 2.6.1. The applicant must receive at least \$20,000 annual cash funds from sources other than the Legal Services Trust Fund Program to support the program described in Guideline 2.3 above, and

Commentary:

In order to qualify under Guideline 2.6.1, you must demonstrate at least \$20,000 annual cash funds from sources other than the Legal Services Trust Fund Program to support the provision of civil legal services without charge to indigent persons. If you did not receive at least \$20,000 cash funds from such sources in the year immediately preceding the application, you must

demonstrate that your average annual cash funds over some period of years have been at least \$20,000 per year. This computation cannot include the value of any donated services or equipment.

You cannot include money received from fee-generating cases or from court-awarded attorneys' fees. [B&P Code §6214(b)(1)]

If you are applying as a law school program, you must demonstrate the program has operated for at least two years at a cost of at least \$20,000 per year. [B&P Code §6213(2)(A)]

2.6.2. The applicant must have demonstrated community support for the operation of a viable ongoing program, and

Commentary:

If you have received at least \$20,000 per year annual cash funds from local sources in the community in which you provide your services, such support is sufficient to meet the requirements of Guideline 2.6.2. You may not count contributions from employees of your organization toward the local support requirement of this Guideline 2.6.2, though it can be counted for 2.6.1.

If you cannot show \$20,000 annual local community financial support, you may demonstrate community support through the donation of services or other non-cash contributions, by service of local community leaders on your board of directors, fundraising committees, etc., or by otherwise demonstrating that the community actually supports the operation of a viable ongoing program.

Letters of support from local community leaders are not sufficient to demonstrate the community support required by Guideline 2.6.2. [B&P Code §6214(b)(2)]

2.6.3. The applicant must provide at least one of the following special services:

2.6.3.1. Recruiting substantial numbers of attorneys in private practice who serve without compensation providing the legal services referred to in Guideline 2.3 above, or

Commentary:

In deciding whether you are eligible to apply as a project that recruits substantial numbers of attorneys, the Legal Services Trust Fund Commission will consider several factors. At a minimum you must meet at least one of the following tests:

- a. you recruited at least 30 attorneys who provided services in the previous calendar year; or
- b. you recruited at least five percent of the licensed attorneys in the county you serve who provided services in the previous calendar year; or
- c. the attorneys you recruited donated at least 1,000 hours of legal services for your clients in the previous calendar year.

Provided you meet one of these minimum tests, you may demonstrate your project's recruitment of substantial numbers of attorneys in one or more of the following ways:

- a. the number of attorneys recruited;
- b. the percentage of attorneys in your local service area that donated services through your project;
- c. the verified value of donated civil legal services in comparison to your expenditures and budget;
- d. the number of hours donated by each attorney;
- e. the number of attorneys in your area who have special expertise needed to provide the services your project offers; or
- f. other considerations that may affect the availability of volunteer attorneys in your service area.

Any attorney who is not an employee of the applicant can be considered in private practice, and attorneys may be considered in private practice even though they work for government agencies, corporations, or in non-legal occupations.

Attorneys can be considered to serve without compensation even when they are reimbursed for out-of-pocket expenses, whether by the client, the applicant, or other sources. [B&P Code §6214(b)(3)(A); Guideline 2.3.2 and supporting Commentary]

2.6.3.2. Providing legal representation, training, or technical assistance on matters concerning special client groups or on matters of specialized substantive law important to special client groups.

Commentary:

Special client groups include any underserved or disadvantaged groups, including, without limitation, the elderly, disabled, juveniles, or non-English-speaking persons. [B&P Code §6214 (b)(3)(B)]

2.7. The application must include a financial statement that includes the total expenditures of the applicant. The financial statement must meet the requirements of Guideline 2.7.1 below.

2.7.1. The statement must show expenditures for the completed fiscal year ended most recently before the application deadline, and must be audited or reviewed by an independent certified public accountant. A financial review, in lieu of an audited financial statement, may be submitted by an applicant whose gross corporate expenditures were less than the amount specified in the Schedule of Charges and Deadlines. Applicants must submit a financial statement no later than 90 days after the end of their fiscal year. The required financial statement must be received prior to the disbursement of any funds from the Legal Services Trust Fund Program.

Commentary:

Independent CPA-audited or reviewed statements are required of organizations with gross expenditures of less than \$500,000. Organizations with gross

expenditures in excess of \$500,000 must submit audited statements. If such a statement is unavailable at the time of the application, you may substitute an approximated financial statement, but you must submit an audited or reviewed statement no more than 90 days after the end of their fiscal year. [B&P Code §6222; Rule 3.680(E)(1); Schedule of Charges and Deadlines]

- 2.7.2. The financial statement need not distinguish between legal services without charge to persons who are indigent (within the definition of Guideline 2.3.4 above) and other services performed by the project. However, if an applicant does provide other services, the application must include the approximated information requested on the expenditure form(s) identifying expenses incurred providing any of the following services: legal services/other activities, civil/criminal, free/charged, indigent/non-indigent clients, in-state/out-of-state expenditures.**

Commentary:

The amount of your grant will be based in part on the amount of your expenditures in your previous fiscal year for civil legal services without charge to indigent persons. See Guidelines 2.3.1 through 2.3.4 for the definitions the Commission will use to determine the portion of your expenditures that are qualified to be counted in determining your grant allocation. [B&P Code §6216(b)]

Records that may be used to demonstrate the portion of the organization's expenses that qualify to be counted in determining the grant allocation include the following: records of the numbers of clients served during the previous year; records reflecting time spent on different kinds of services or on services to indigent/non-indigent clients in the previous year; accounting records reflecting expenses incurred providing different kinds of services or on services to indigent/non-indigent clients during the previous year.

If you rely on estimates to establish the amount of your qualified expenditures, you must make the estimates by a method that is reasonably related to the actual expenditure of funds and explain the basis of the estimates.

- 2.7.3. The financial statement must disclose and segregate any amounts paid to or received from another program applying for an allocation under the Legal Services Trust Fund Program.**

Commentary:

In order to avoid double counting, funds contributed by one program to another program, when both are applicants for an allocation from the Legal Services Trust Fund Program, must be disclosed in the financial statements of both programs. In determining allocations, such funds will be counted only for the program receiving the funds, unless those programs have executed a contrary agreement differently allocating the credit for the contributed funds between the two programs. If an agreement is made, both programs must provide a copy of such agreement to the Commission.

- 2.8. The application must state the counties in which the legal services described in Guideline 2.3 above are provided. An applicant that provides such services in more than one county must state the total expenditures made for services in each county and explain the basis of the by-county allocation. In allocating total expenditures among counties on Legal Services Trust Fund Program applications, an applicant must use a method that is reasonably related to the actual expenditure of funds and explain the basis of the allocation.**

Commentary:

You may qualify for allocations only in counties you are presently serving. If you are presently serving more than one county, allocate the expenditures that meet the requirements of Guideline 2.3 by county, explaining the basis for your allocation. The Commission will evaluate whether your allocation is reasonably related to the actual expenditure of funds in light of the particular characteristics of your organization and your services. The allocation information does not need to be audited. [B&P Code §6216(b)]

The following are some of the bases for allocation of expenses among counties served that the Commission has found in past years to be reasonable under appropriate circumstances: numbers of clients served who reside in each county; number of cases handled in each county; actual or estimated hours of service provided in each county, or provided to clients who reside in each county; actual expenses of providing service to clients in each county, including both personnel and non-personnel expenses; statistics that establish the geographic distribution by county of persons who will benefit from the services provided. In certain circumstances, it may be necessary to use a combination of these or other methods to arrive at an allocation method that is reasonably related to the actual expenditure of funds. If you rely on estimates, you must make the estimates by a method that is reasonably related to the expenditure of funds and explain the basis of the estimates.

If you allocate expenses to counties other than those in which your individual or organizational clients reside, or those in which you provided the services, the allocation must be reasonably related to the geographic distribution of the indigent persons who will benefit from the services. In evaluating the reasonableness of such allocations, the Commission may consider the following factors and any others that aid in making that determination: (1) the forum in which the matter is being pursued, e.g., courts, administrative agency, legislature, etc.; (2) whether the matter can be expected to establish a precedent and the anticipated scope or breadth of that precedent; (3) in the case of a class action, the definition of the class contained in the complaint and proposed or actual class certification orders; (4) a description of the group of individuals that would benefit from a favorable resolution of the legal matter; and (5) the legal issues raised by the matter.

For a legal matter or matters for which you allocate expenses based on residence of persons other than your individual clients, your application must identify the legal matters and, for each matter, provide the information listed in items (1) through (5) in the preceding paragraph. You should also identify the geographic and numeric distribution of the persons the matter may benefit and your approximate expenditures for the matter. Explain the basis of this

information. You need not disclose information protected by the attorney-client privilege.

2.9. An applicant wishing to qualify for the additional allocation reserved for organizations that demonstrate the volunteer services of private lawyers as their principal means of delivering legal services must meet each of the following requirements:

2.9.1 the requirements of Guideline 2.6.3.1 above; and

2.9.2 the applicant's principal means of delivering legal services is the recruitment of attorneys in private practice.

Commentary:

See Commentary concerning Guideline 2.6.3.1. One method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence that the attorneys recruited actually provided substantial free civil legal services and that the number of hours of services so provided in the previous calendar year by attorneys recruited exceeded the number of hours of services provided by lawyer staff employed by the applicant.

An alternative method by which you may demonstrate that such recruitment is your project's principal means of legal services delivery is to show by objective evidence (1) that the attorneys recruited actually provided substantial free civil legal services; (2) that the combined number of hours of service by volunteers, both attorneys and paralegals, exceeds the combined number of hours of service by staff attorneys and paralegals; and (3) that the number of hours of service by volunteer attorneys is more than half as many as the combined number of hours of service by staff attorneys and paralegals.

If you do not use either of these methods to demonstrate your principal delivery means, you should describe and explain in your application the method used.
[B&P Code §6216(b)(1)(B)]

Legal Services Trust Fund Program

Eligibility Guidelines

SUPPORT CENTERS ONLY

**The State Bar of California
180 Howard Street
San Francisco, CA 94105-1617**

Legal Services Trust Fund Program Eligibility Guidelines

Table of Contents

1. Requirements for All Applicants	1
1.1 Agreement Limiting Use of Funds	1
1.2 Budget and Budget Narrative	2
1.3 Required Assurance	2
1.4 Requests for Further Information	2
2. Requirements for Support Centers	2
A. Mandatory Requirements for All Support Centers	
2.1 Nonprofit Corporation	3
2.2 Current Provision of Significant Level of Services	3
2.3 Primary Purpose and Function	7
2.4 Plan for Added Services	8
2.5 Agreement Limiting Use of Funds	8
2.6 Resolution Establishing Priorities	8
2.7 Range of Services	8
B. Further Elective Requirements	
2.8 Centers Existing December 31, 1980 Presumed Eligible	8
2.9 Non-Presumption Support Centers	9
2.9.1 Deemed of Special Need	9
2.9.2 Quality Control	10
3. State Bar of California Districts Prior to July 1, 2010	11

Legal Services Trust Fund Program Eligibility Guidelines

The Legal Services Trust Fund Program Eligibility Guidelines were designed as a brief statement of factors governing eligibility for an allocation under the Legal Services Trust Fund Program. The Guidelines, together with their Commentary, are intended to incorporate provisions found in the statute (Business and Professions Code §6210, et seq.) and at Title 3, Rules 3.660-3.692 of the Rules of the State Bar of California.

Commentary follows each guideline and is designed to further assist you in seeking an allocation under the Legal Services Trust Fund Program. Bracketed references are to the Business and Professions Code (B&P Code) and Rules of the State Bar.

Requirements for All Applicants

1. **To be considered for a Legal Services Trust Fund Program grant, an applicant must submit a timely and complete application for funding in the manner prescribed by the Legal Services Trust Fund Commission (the Commission). To qualify for an allocation under the Legal Services Trust Fund Program, an applicant must be either:**
 - a. **a qualified legal services project (Legal Services Projects Guidelines 2-2.9); or**
 - b. **a qualified support center (Support Centers Guidelines 2-2.9).**

A single applicant may not qualify as both a legal services project and a support center. [Rule 3.680(D)]

Commentary:

The main distinction between a legal services project and a support center is found in the primary purpose of the organization. Compare Legal Services Projects Guideline 2.3 with Support Centers Guideline 2.3. You must indicate on your application the status under which you wish to be considered. You may complete the applications for both a legal services project and a support center. If you qualify in the category of first preference, you will not be considered in the second category. If you do not qualify in the category of your first choice, you will be considered for eligibility under the category of your second choice, if your primary purpose and function qualifies you for that category. [Rule 3.671(A)-(C)]

- 1.1. **All applicants must include with their applications an assurance that the applicant will use the funds allocated from the Legal Services Trust Fund Program for the purposes set forth in §§6210-6228 of the Business and Professions Code.**

Commentary:

The application includes an Assurances form. Execution of that form will satisfy the requirements of Guidelines 1.1-1.3.

- 1.2. Within 30 days after notice of a tentative allocation from the Commission, the applicant must submit a budget and budget narrative for the expenditure of the allocation.
 - 1.2.1. For support centers, the budget and budget narrative must show that all funds allocated from the Legal Services Trust Fund Program will be used in support of qualified legal services projects providing free legal services in California.
- 1.3. All applications must include an assurance that the applicant:
 - 1.3.1. at all times will honor the attorney-client privilege and will uphold the integrity of the adversary process; and
 - 1.3.2. will not impose restrictions unrelated to statutes and rules of professional conduct on attorneys who provide representation to indigent clients with funds provided in whole or in part from the Legal Services Trust Fund Program; and
 - 1.3.3. does not discriminate on the basis of race, color, national origin, religion, sex, handicap, or age.

Commentary:

See Commentary 1.1 above. [B&P Code §§6210, 6217, 6221; Rule 3.682]

- 1.4. If the Commission or staff requests any further information relating to an applicant's eligibility, or related to the amount of the allocation under the Legal Services Trust Fund Program, the applicant must supply that information. However, the Commission is not required to notify applicants if their initial application fails to include information sufficient to demonstrate eligibility. Failure to provide information necessary to the Commission's decisions on eligibility or eligible expenditures (or failure to supply requested information relevant to those decisions) will be grounds for denial of eligibility, or for refusal to recognize part of the applicant's expenditures within the allocation formula. [Rules 3.680(E) and 3.691(A)]

Requirements for Support Centers

2. To be a qualified support center, the applicant must meet (a) each of the requirements of Guidelines 1.1-1.3 above, and (b) each of the following Guidelines 2.1-2.7, and (c) the requirements of either Guideline 2.8 or 2.9.

Commentary:

The qualified support center must meet: (1) the requirements applicable to all applicants (see Guidelines 1.1-1.3); (2) the mandatory requirements of Guidelines 2.1-2.7 applicable to all support centers; and (3) either the eligibility presumption established by Guideline 2.8, or the requirements for quality control and "special need" set forth in Guideline 2.9.

The mandatory requirements applicable to all support centers (Guidelines 2.1-2.7) contain two separate requirements. A support center must demonstrate that it provides a significant level of legal support services to qualified legal services projects in California (the “significant level” test). Additionally, a support center must demonstrate that its primary purpose and function is the provision of legal support services (the “primary purpose and function” test). [Rule 3.680(A)]

2.1. The applicant must be a nonprofit corporation (in California or another state).

Commentary:

In order to demonstrate your status as a California corporation, copies of the Articles of Incorporation certified by the California Secretary of State and a current Certificate of Status from the California Secretary of State showing that the corporation is in good legal standing must be filed with the Legal Services Trust Fund Program. To demonstrate your nonprofit status, copies of (1) the determination letter from the Internal Revenue Service granting your application for exemption from the appropriate provisions of subchapter (f) of Chapter 1 of the Internal Revenue Code of 1954, as amended and (2) the determination letter from the State Franchise Tax Board granting your application for exemption from the appropriate section of the California Revenue and Taxation Code must be filed with the Legal Services Trust Fund Program. If you have not received such determination letter(s), attach copy(ies) of your application(s) for exemption together with an explanation of its/their status. [B&P Code §6213(a)(1); Rules 3.670(A), 3.680(A)]

2.2. The application must demonstrate through objective information that the organization currently:

Commentary:

The statute requires that applicants must **currently** be providing the services described in Guidelines 2.2.1-2.2.4.

The regulations require that you demonstrate with “objective information” that you provide the required services. Objective information that can be used to demonstrate your services is described in Guidelines 2.2.1-2.2.3. See also Commentary 2.3. [B&P Code §6213(b); Rule 3.670(B), 3.671(B), 3.680(E)(2), 3.680(E)(4)]

2.2.1. provides a significant level of legal training, legal technical assistance, or advocacy support to qualified legal services projects

Commentary:

You must demonstrate that you are currently providing **a significant level** of legal training, legal technical assistance, or advocacy support to programs that are qualified for Legal Services Trust Fund Program allocations as legal services projects. In order to meet this test, the services provided must be offered on a regular and consistent basis.

Such training, assistance or support include, but are not limited to, the direct provision of civil legal services to an indigent person, either as co-counsel with

an attorney employed or recruited by a qualified legal services project, or at the request of an attorney employed or recruited by a qualified legal services project that is unable to assist the client [see Rule 3.672(B)(2)], provided that:

- a. you keep written records to demonstrate that the direct provision of services was either as co-counsel with an attorney employed or recruited by a qualified legal services project, or at the request of such an attorney [Rules 3.672(B), 3.682]; and
- b. you establish and use policies and procedures that encourage qualified legal services projects to participate in the organization's representation of persons referred by them.

Support services provided to organizations that are not qualified legal services projects, or to attorneys in private practice who were not recruited by a qualified legal services project, will not be taken into consideration for purposes of demonstrating that a support center provides a significant level of services to qualified legal services projects.

In deciding whether you meet the "significant level" test, the Legal Services Trust Fund Commission will consider several factors. At a minimum, you must demonstrate that in the last year you have provided legal training, legal technical assistance, or advocacy support to at least ten qualified legal services projects. For purposes of this test, services provided to more than one office of a multi-office legal services project shall only count as services to one project. In addition, for purposes of this test, you **cannot** count the distribution of newsletters, general mailings, or the provision of other materials of general distribution. You must maintain written records of requests for services to demonstrate the number of projects to which you provided services.

You must provide services to at least ten projects to qualify as a support center. Applicants that fail to meet this test will be found not to have provided a significant level of services to qualified legal services projects.

Provided you meet this minimum test, you must also demonstrate through objective information that the nature and content of the services you provided were significant. In determining whether a support center's services were significant, the Commission may consider the following factors and any others that aid in making that determination:

- a. The provision of legal training, legal technical assistance, and advocacy support to a large number of projects is relevant data for demonstrating a significant level of support. However, numbers alone will not be the sole test.
- b. Services must be substantial in nature, not merely simple or intermittent responses to requests for assistance. For example, responding to ten simple requests for assistance will not itself demonstrate a significant level of support services. One large-scale complex lawsuit that takes a substantial amount of attorney time to complete will demonstrate a more significant level of services than a simple individual action. However,

handling a substantial number of individual actions may also demonstrate a significant level of work. Distribution of newsletters or other educational material will not itself meet the “significant level” test, but development of useful resources for qualified legal services projects is relevant data for demonstrating a significant level of support.

2.2.2. and such training, assistance, or support is not only actually available statewide

Commentary:

Your services must actually be available statewide. You must hold your services available on request on a statewide basis to all qualified legal services projects irrespective of where they are located within the state and publicize the availability of such services on a statewide basis. This publicity should ordinarily include at least two written communications during each calendar year, directed to every qualified legal services project in California, in which you describe the availability of your services. These written communications may be included in newsletters or other regular publications. You should send a copy of the communications to the Legal Services Trust Fund Program when you send them to the legal services projects.

Second, you must also demonstrate through objective information that your services are actually available and publicized throughout the state. In determining whether this requirement is met, the Commission may consider such factors as your staff’s participation in task forces and other training forums, your distribution of newsletters and general mailings, and any other efforts you make to give notice of the availability of services.

2.2.3. but is also actually provided statewide

Commentary:

You must also demonstrate that you provide services on a statewide basis. Your services must have actually been utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. Southern California counties shall include the counties of San Luis Obispo, Kern, San Bernardino and counties further south. At the end of these Guidelines, is a list of the counties assigned to each of the nine State Bar Districts.

In determining whether a support center’s services were statewide, the Commission may consider the following factors and any other objective information that aids in making the determination:

- a. The provision of support services to a number of State Bar Districts or counties larger than the minimum stated above would be relevant data for demonstrating a geographic distribution of service. However, numbers alone will not be the sole test.
- b. Statewide services must be substantial in nature, not merely simple or intermittent responses to requests for assistance. For example, providing

most services in one or a few counties but occasionally responding to inquiries from other parts of the state will not itself demonstrate a statewide distribution of services.

For purposes of determining whether your services were actually provided on a statewide basis, the Commission will consider only the provision of legal training, legal technical assistance, and advocacy support. Other services provided, such as general information, the distribution of newsletters, and general mailings, will not be sufficient to demonstrate that an applicant is not local but statewide, or that an applicant has provided services in a majority of the State Bar Districts.

2.2.4. without charge

Commentary:

The “without charge” standard is fully met when services are provided without imposing any fee or requiring any payment. However, training services may still be considered “without charge” when the fee imposed is directly tied to the actual additional expense incurred in training an individual and does not include general expenses that are incurred in providing the training to the community at large. To illustrate:

- a. Direct expenses that can be charged to individuals participating in training events include the actual cost of their own refreshments, lodging, materials distributed (including manuals, workbooks, and binders), per participant webinar fees, and similar costs associated with individual participation.
- b. Training expenses that should not be charged to participants include the costs of facilities rental for the training event; general costs of materials, equipment, and services necessary to conduct trainings (such as visual aids, projectors, IT services, licensing fees, and delivery charges); expenses associated with travel, food, or lodging for staff or outside trainers; costs of developing materials (including staff salaries and consultant fees/expenses); and organizational expenses, including but not limited to insurance, audit costs, library costs, overhead, or telecommunications expenses.

Under Business and Professions Code §6213(b), the “without charge” standard applies to assistance provided to qualified legal services projects. It would be consistent with the spirit of the Legal Services Trust Fund statute, whenever possible, to also extend this consideration to fellow qualified support centers.

2.2.5. through an office in California.

Commentary:

You must actually have a regularly functioning office physically located in California and provide these services through that office. The office must have been in existence and operating prior to your application for a Legal Services Trust Fund Program grant.

2.3. The provision of legal training, legal technical assistance, or advocacy support without charge must be the primary purpose and function of the corporation.

Commentary:

You must demonstrate that it is the primary purpose and function of the **corporation** viewed as a whole, and not simply that of part of the corporation, to provide free legal training, legal technical assistance, or advocacy support. You may consider the provision of similar services in other states when determining the primary purpose and function of the corporation.

To be considered legal training, legal technical assistance, and advocacy support, the services must meet the following criteria:

- a. Services must be provided (1) to attorneys or lay advocates or others involved in the direction or operation of legal services projects that provide legal services to indigent persons; or (2) to attorneys in private practice who are providing legal services without charge to indigent persons; or (3) directly to indigent persons when requested to do so by a qualified legal services project.
- b. The content of the training and technical assistance must be directed toward meeting the legal needs of indigent persons or the functioning of the legal services project.
- c. The direct provision of legal services to clients is not a “support service” unless it is delivered (1) as co-counsel with a qualified legal services project; or (2) as co-counsel at the request of a private attorney representing indigent clients without charge; or (3) after a referral from a qualified legal services project.
- d. The provision of similar legal support services in states other than California will be considered in determining the primary purpose and function of the corporation.

A support center shall be presumed to meet the “primary purpose and function” test if the services described above constitute more than 75 percent of the corporation’s expenditure budget in the year for which it is seeking an allocation from the Legal Services Trust Fund Program.

If the organization cannot meet the “primary purpose and function” test by complying with this presumption, you may demonstrate the primary purpose and function by other means. You will need to demonstrate that the primary purpose of the organization is to assist legal services advocates who provide direct civil legal services to indigent clients through the provision of legal training, legal technical assistance, and advocacy support. You must show that the primary purpose is not the direct provision of legal services to clients and that the support services consist of training, technical assistance, and advocacy support. [B&P Code §6213(b); Rule 3.671(B), (C)]

- 2.4. If the organization receives funds from sources other than the Legal Services Trust Fund Program, the applicant must submit a plan assuring that the services funded from the Legal Services Trust Fund Program are in addition to those already funded from other sources.**

Commentary:

Describe the sources, amounts, and conditions of your funding other than the Legal Services Trust Fund Program and the additional services you intend to provide with the monies allocated by the Legal Services Trust Fund Program. You must also submit a plan to maintain your current level of funding from sources other than the Legal Services Trust Fund Program. [B&P Code §6216(c)]

- 2.5. The application must include an agreement by the organization to use all funds allocated from the Legal Services Trust Fund Program in support of qualified legal services projects providing free legal services in California, and to restrict use of funds allocated from the Legal Services Trust Fund Program to matters directly related to the needs of legal services clients.**

Commentary:

You may meet this requirement by signing the Assurances form that is part of the application. [B&P Code §6216(c)]

- 2.6. The application must include a resolution of the board of directors of the corporation establishing the organization's priorities for the provision of legal support services. The adoption of this resolution must have followed consultation with legal services attorneys, members of the private bar, and eligible clients.**

Commentary:

You must attach to your application a resolution adopted by your board of directors within the last two years establishing the organization's priorities. In addition, you must describe the manner in which legal services attorneys, members of the private bar, and eligible clients were consulted for purposes of establishing priorities. Those consulted to meet this requirement must include persons who are not members of your board of directors. [Rule 3.680(B)]

- 2.7. The organization must offer a range of services including more than one of the following: consultation, representation, information services, and training.**

Commentary:

Describe the manner in which the organization offers services falling under at least two of the headings: consultation, representation, information services, and training. [Rule 3.680(B)]

- 2.8. The organization must meet either the requirements of this Guideline 2.8, or the requirements of Guideline 2.9. To meet the requirements of this Guideline 2.8, the organization must have met the requirements of Guidelines 2.2-2.3 on December 31, 1980.**

Commentary:

If the organization has met the general requirements applicable to all applicants, Guidelines 1.1-1.4, and has met the requirements of Guidelines 2.1-2.7, it must also meet either the requirements of this Guideline 2.8, or the requirements of Guideline 2.9.

In order to meet the requirements of Guideline 2.8 (and thus avoid the necessity of complying with Guideline 2.9), the organization must, on December 31, 1980, have been a nonprofit organization which had as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support without charge, and which was actually providing a significant level of such services to qualified legal services projects, and such training, assistance, or support must have been available statewide without charge through an office in California at that time. [B&P Code §6215(a)]

If the organization has previously been determined by the Commission to meet this requirement, you do not need to reestablish it each grant year.

2.9. An applicant that does not meet the requirements of Guideline 2.8 must meet the requirements of Guidelines 2.9.1 and 2.9.2 below:

2.9.1. The organization must be deemed to be of special need by a majority of the qualified legal services projects. If an applicant was affirmatively deemed of special need for one grant period, the Commission will assume (without need for further information) that it continues to be so deemed for the immediately following two grant periods.

Commentary:

If you do not meet the presumption established by Guideline 2.8, the organization must be deemed of special need by a majority of legal services projects which receive allocations from the Legal Services Trust Fund Program. The statute requires that the organization presently be so deemed.

Evidence of such deeming in prior years, while it may be considered by the Commission as relevant evidence, is not determinative of the issue before the Commission except in the two funding periods after the grant period for which you were so deemed. The Commission itself intends to solicit the views of qualified legal services projects as to whether the organization is presently deemed of special need in every third year, starting with their application for the first funding period. Therefore, you must (for your first, fourth, seventh, etc., funding periods) supply the Commission with a one-page description of the organization.

The Commission will solicit advice from qualified legal services projects whether they presently deem the organization to be of special need. More than one-half of those whose advice is solicited must respond affirmatively in order for the organization to be eligible. Upon request, the Commission will make available to you a list of the names and addresses of the qualified legal services projects from which the Commission will solicit views.

In deciding whether they deem a support center to be of special need, projects will be instructed to consider what support the legal services projects in California need in delivering legal services to indigent persons, and to evaluate how the organization's services meet that need, including such issues as the quality and/or quantity of the organization's work. Project directors will be encouraged to consult with service providers or others associated with the project in making their decision. [B&P Code §6215(b)(2); Rule 3.680(C)]

2.9.2. The application must include a description of the organization's quality control procedures and standards, including, but not limited to, the matters described below:

Commentary:

The State Bar's Board of Governors adopted the American Bar Association's Standards for the Provision of Civil Legal Aid as the quality control standards for the Legal Services Trust Fund Program, pursuant to Business & Professions Code §6225 and Rule 3.661(C). These standards are the State Bar's guidelines for review and approval of applicant and recipient program practices.

If you are already subject to quality control reviews by any non-Trust Fund Program funding source or entity, describe the quality control review procedures to which you are subject, and attach the most recent comprehensive written quality control review by that entity in lieu of the information requested by Guidelines 2.9.2.1-2.9.2.4. (It is not necessary to explain in detail the review procedures followed.)

If you are not subject to such review procedures, describe your quality control standards and how compliance with each of the subjects listed in Guidelines 2.9.2.1–2.9.2.4 is ensured. The Commission is particularly interested in the standards and procedures regarding supervisory structure, procedures, and responsibilities. [B&P Code §§6123(b) and 6217(a); Rule 3.680(E)(2)]

2.9.2.1. the minimum experience and education requirements for attorney and paralegal employees;

2.9.2.2. the current salaries and job descriptions for all filled and unfilled management and professional positions, including paralegal personnel;

2.9.2.3. the minimum experience and educational requirements for attorney supervisors;

2.9.2.4. the supervisory structure, procedures, and responsibilities.

State Bar of California Districts Prior to July 1, 2010

District 1

Butte
Colusa
Del Norte
Glenn
Humboldt
Lake
Lassen
Mendocino
Modoc
Nevada
Placer
Plumas
Shasta
Sierra
Siskiyou
Sutter
Tehama
Trinity
Yuba

District 2

Napa
Sacramento
Solano
Sonoma
Yolo

District 3

Alameda
Contra Costa

District 4

Marin
San Francisco
San Mateo

District 5

Alpine
Amador
Calaveras
El Dorado
Fresno
Inyo
Kern
Kings
Madera
Mariposa
Merced
Mono
Monterey
San Benito
San Joaquin
San Luis Obispo
Santa Cruz
Stanislaus
Tulare
Tuolumne

District 6

Santa Clara

District 7

Los Angeles

District 8

Orange
Santa Barbara
Ventura

District 9

Imperial
Riverside
San Bernardino
San Diego

Revision to Guidelines for Support Centers with respect to determination of whether or not the Support Center is providing services “statewide” in California.

Background: Support Centers must establish that their services are available, and are actually provided, on a “statewide” basis. Since the Program’s inception, the Trust Fund Program has been using State Bar Board of Trustee districts to demonstrate that a Support Center’s breadth of service is “statewide.” For reasons unrelated to Trust Fund Program grants, the Board of Trustees revised its districts in 2012 in a way that did not work for Trust Fund Program purposes. Therefore, the Commission determined to use the old districts (2010 Map attached) pending a resolution adopting a new regional map to define “statewide” for support centers.

At its June 2016 meeting, the Commission defined new regions for viewing “statewide” support, and after vetting the recommendations at LAAC Support Center meetings, and at a State Bar bi-monthly call with Legal Services programs, adopted the resolution at its December meeting. The new map for defining “statewide” better achieves its intended goals than the previous criteria, including assuring services outside the Bay Area and Los Angeles corridors.

Beginning 2017, Support Centers must demonstrate that they provide services in 5 of the 7 attached regions.

Previous Eligibility Guideline 2.2.3 for Support Centers:

Commentary:

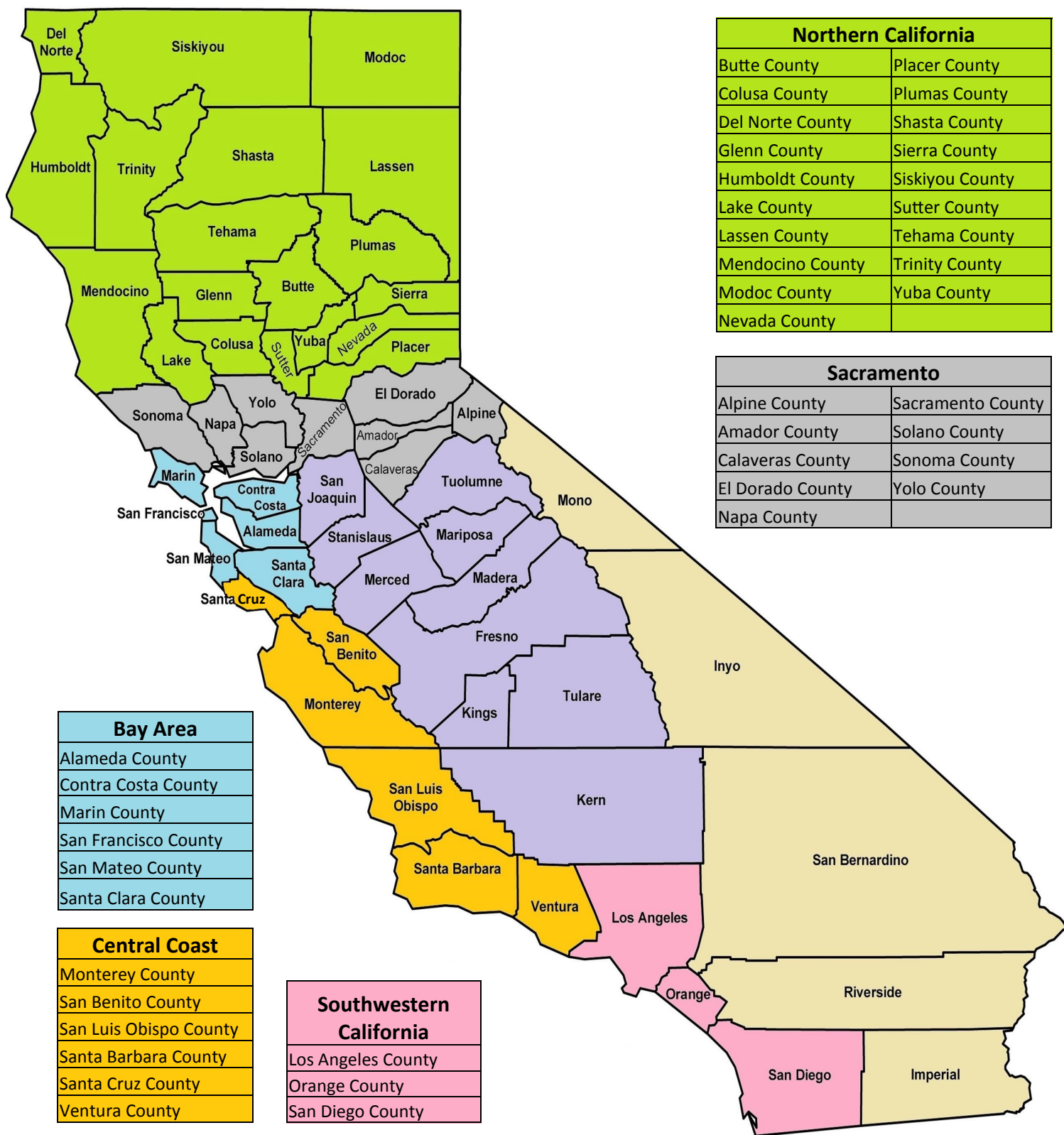
You must also demonstrate that you provide services on a statewide basis. Your services must have actually been utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. Southern California counties shall include the counties of San Luis Obispo, Kern, San Bernardino and counties further south. At the end of these Guidelines, is a list of the counties assigned to each of the nine State Bar Districts. . . .

Approved Revision to Eligibility Guideline 2.2.3 for Support Centers:

Commentary:

You must also demonstrate that you provide services on a statewide basis. Effective January 2017, your services must be utilized in five of the following seven districts: Northern California, Sacramento Area, Bay Area, Central Coast, Central Valley, Eastern California, and Southwestern California. At the end of these guidelines is a list of the counties assigned to each of the regions. (see, Legal Services Trust Fund Program, Support Center – 2017 Regional map)

Note: For services provided in 2016, Support Centers may apply the new regions, or rely on the prior requirement that the services were utilized within the last year in a majority of the nine State Bar Districts that existed prior to July 1, 2010, and in at least two Northern California counties and two Southern California counties. (see State Bar Districts, 2010 map)

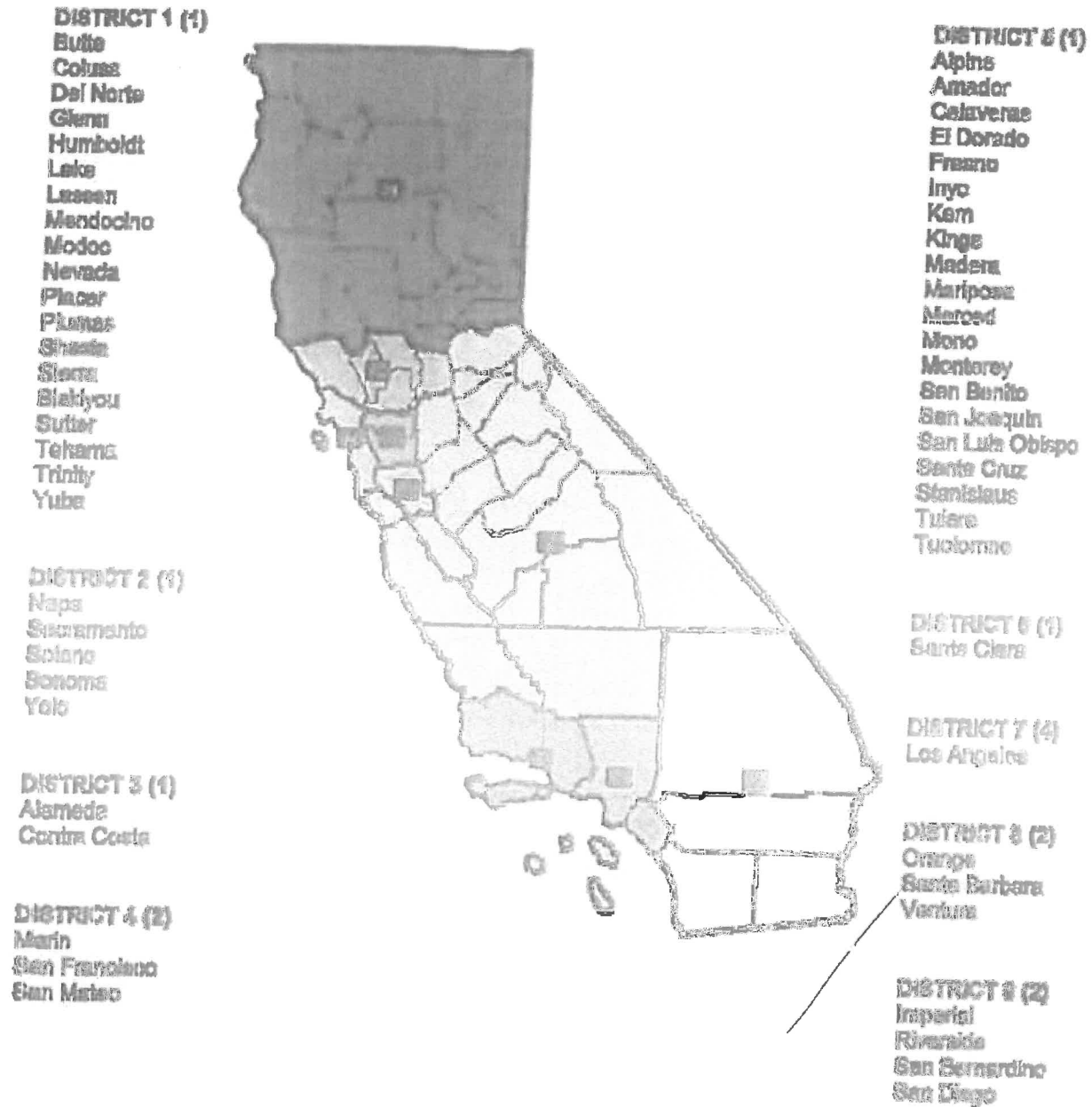


**Legal Services Trust
Fund Program**

Support Center — 2017 Regional Map

STATE BAR DISTRICTS

The composition of State Bar Districts and the number of elected seats (in parentheses) on the Board of Governors in each District are as follows:



Additional Information from Public Counsel re: Impact Litigation Cases

- *Integrate NYC vs. State of New York*: A favorable decision in this case brought under the New York State Constitution would likely serve as persuasive authority for a similar case brought under the California Constitution to establish a constitutional right to an anti-racist education for indigent California students.
- *Kevin S. v. Jacobson* is a landmark child welfare settlement in New Mexico that builds on out-of-state settlements, like the Katie A. case in Los Angeles. A number of the issues that it takes on—building a trauma-responsive system, providing a spectrum of behavioral health services for children in state custody, and reinforcing protections for Native children—are likely to serve as models for California and other states. Child welfare and behavioral health reform efforts across the country are in constant conversation with one another, and this one is no exception, especially given the number of Californians on the Plaintiffs’ side and in the state agencies.
- *Scott. C. v. Riverview Gardens School District* is a landmark settlement in Missouri that protects the rights of students experiencing homelessness to access education. It was brought under federal law, and has implications for the enforcement of the McKinney-Vento rights of students experiencing homelessness in other states, including California. The settlement addresses policies and practices to ensure proper identification and immediate enrollment of students experiencing homelessness, transportation for students experiencing homelessness, the McKinney-Vento dispute resolution process, and appropriate supports, including trauma-sensitive practices, to help students experiencing homelessness receive a safe, supportive, and high-quality public education. The settlement can serve as a model for actions of this kind in California, and has helped establish authority that both states and school districts have a duty to enforce the McKinney-Vento rights of students.

Organization:	Public Counsel
1. Case name:	IntegrateNYC v. State of New York
2. Case status:	Open
3. Court name:	Supreme Court of the State of New York, County of New York

4. Do you believe this to be an IOLTA qualifying activity as defined by B&P 6213, State Bar Rule 3.672, and Eligibility Guideline 2.3?

If you answered no, remember to deduct expenditures related to this non-qualifying activity in the next IOLTA/EAF grant application cycle.

Yes

4. Partner Organizations:

Partner Organizations

State Bar Grantees

Other Organizations

Sidley Austin LLP

5.a. Support Centers

Only: If this is an IOLTA qualifying activity, and no QLSP was listed as a partner organization, indicate how the activity is qualifying under B&P 6213.:

Suggested word limit: 500

6. Counties Impacted

Check all that apply

Out of State

7. Substantive Area

Check all that apply

Education

Describe
"Miscellaneous":

8. Constituencies Impacted

Check all that apply

Children/Youth, Other (Explain)

a. Other
Constituencies:

If the constituencies impacted are not included, please list them.

Black, Latinx, and certain Asian students

9. Parties or Class Represented

IntegrateNYC, PS 132 Parents For Change, Coalition for Educational Justice, and 13 student plaintiffs

a. If available, provide the estimated total number of people impacted:

1100000

10. Is the named client indigent?

This answer alone will not decide whether the activity is or is not a qualifying expense.

Yes

11. Explain how the majority of those impacted are indigent, as defined in B&P §6213(d)

If the majority of persons impacted are not indigent, type n/a.

The case is intended to secure a basic and anti-racist education to low-income students of color; the individual plaintiffs are indigent and the organizational plaintiffs are community-based organizations that advocate on behalf of low-income students. Indigent persons are disproportionately impacted by segregation in NYC public schools.

12. Describe the impact this case will have on indigent persons

If available, include the estimated number of total indigent persons impacted and how this was determined. If no impact on indigent persons, type n/a.

This case will allow all NYC public school students, regardless of race or class, to obtain what is promised to them by the New York State Constitution: the right to “a sound basic education,” one that “conveys not merely skills, but skills fashioned” to prepare students for “meaningful civic participation in contemporary society.”

13. Briefly describe the legal issue(s) of the case and the overall goal(s)

Students and advocates brought a lawsuit against New York State and City defendants, challenging racial hierarchies in public education and asserting their right under the New York State Constitution to an education that identifies and dismantles racism. New York City public schools are some of the most segregated across the nation, with a racialized pipeline that rewards families’ race and wealth privilege and largely excludes students of color, including Black, Latinx, and certain Asian students, from the city’s prime educational opportunities. The lawsuit demonstrates how New York City’s public education system props up—and in fact exacerbates—the city’s racial inequality by maintaining racially discriminatory admissions screens at every level of education; allowing schools to teach a white and Eurocentric curriculum that marginalizes people of color; failing to build a diverse educator workforce; and failing to equip students with the tools to identify and dismantle racism and provide mental health supports to redress the harms already wrought.

14. List case outcomes

If case remains open, highlight accomplishments (if any) achieved during the evaluation year.

The complaint was filed on March 9, 2021 in the Supreme Court of New York, and an amended complaint was filed on June 25, 2021, which included two additional organizational plaintiffs, P.S. 132 Parents for Change and Coalition for Educational Justice, and one additional student plaintiff. We filed an opposition to Defendants’ motion to dismiss, and the Coalition for Asian American Children and Families (CACF) filed a supporting amicus brief, on December 13, 2021.

15. If applicable, describe any economic benefit(s) achieved (client award and/or costs averted)

If the case remains open, but there is an expected future economic benefit, describe the estimated benefit. Report the information you have available (e.g., estimated range). Do not extrapolate.

a. Enter economic benefit amount, if applicable:

16. Total Staff Hours

Report total staff hours spent on this case in the evaluation year

1,491

17. Total Volunteer Hours

Report total volunteer hours spent on this case in the evaluation year. Enter 0 if there were no volunteer hours.

1,148

Organization: Public Counsel

1. Case name: Kevin S. v. Jacobson

2. Case status: Closed

3. Court name: U.S. District Court, District of New Mexico

4. Do you believe this to be an IOLTA qualifying activity as defined by B&P 6213, State Bar Rule 3.672, and Eligibility Guideline 2.3?

If you answered no, remember to deduct expenditures related to this non-qualifying activity in the next IOLTA/EAF grant application cycle.

Yes

4. Partner Organizations:

Partner Organizations

State Bar Grantees

Other Organizations

Disability Rights New Mexico
Native American Disability Law Center
Pegasus Legal Services for Children

5.a. Support Centers

Only: If this is an IOLTA qualifying activity, and no QLSP was listed as a partner organization, indicate how the activity is qualifying under B&P 6213.:

Suggested word limit: 500

6. Counties Impacted

Check all that apply

Out of State

7. Substantive Area

Check all that apply

Disability Rights, Juvenile

Describe
"Miscellaneous":

8. Constituencies Impacted

Check all that apply

Children/Youth, Persons with Disabilities, Other (Explain)

a. Other
Constituencies:

If the constituencies
impacted are not
included, please list
them.

Native Americans

9. Parties or Class Represented

14 foster youth, Disability Rights New Mexico, and Native American Disability Law Center

a. If available, provide
the estimated total
number of people
impacted:

2500

10. Is the named client indigent?

This answer alone will not decide whether the activity is or is not a qualifying expense.

Yes

11. Explain how the majority of those impacted are indigent, as defined in B&P §6213(d)

If the majority of persons impacted are not indigent, type n/a.

The plaintiffs are indigent children in state custody in New Mexico.

12. Describe the impact this case will have on indigent persons

If available, include the estimated number of total indigent persons impacted and how this was determined. If no impact on indigent persons, type n/a.

The case will lead to the development of a system of care for all children in state custody in New Mexico that will be trauma responsive, stable, safe, appropriate, community-based, least-restrictive, and culturally appropriate for Native children and families – supported by a statewide, community-based behavioral health system.

13. Briefly describe the legal issue(s) of the case and the overall goal(s)

Filed in 2018, the lawsuit alleged that trauma-impacted children and youth in New Mexico foster care lacked safe, appropriate and stable placements, and behavioral health services to meet their needs in the state system. In March 2020, the parties reached a settlement that sets forth a unique process to bring together advocates, state agencies and national experts. It sets a number of specific targets for reforming the system that the state has agreed to achieve in the coming years. Three experts on child welfare reform will help reach the targets and will evaluate performance using data and input from the community.

14. List case outcomes

If case remains open, highlight accomplishments (if any) achieved during the evaluation year.

In November 2021, the expert team that monitors the State of New Mexico's compliance with the Kevin S. settlement agreement issued its first annual report. The Kevin S. settlement was designed to ensure that resources would be aligned to take care of children removed by the State from their families. To achieve these goals, the settlement includes specific targets and timelines, focusing on four areas: a trauma-responsive system of care, least restrictive and appropriate placements for foster children, Indian Child Welfare practices, and improved access to behavioral healthcare. However, of the 49 targets monitored in this first annual report, only 11 met the standard required by the settlement. Public Counsel, along with our implementation team partners, have initiated the dispute resolution process to work with the State on a plan to bring it into compliance with the agreement.

15. If applicable, describe any economic benefit(s) achieved (client award and/or costs averted)

If the case remains open, but there is an expected future economic benefit, describe the estimated benefit. Report the information you have available (e.g., estimated range). Do not extrapolate.

a. Enter economic benefit amount, if applicable:

16. Total Staff Hours

Report total staff hours spent on this case in the evaluation year

499

17. Total Volunteer Hours

Report total volunteer hours spent on this case in the evaluation year. Enter 0 if there were no volunteer hours.

0

Organization:	Public Counsel
1. Case name:	Scott C. v. Riverview Gardens School District
2. Case status:	Open
3. Court name:	Missouri Western District Court, Eighth Circuit Court of Appeals

4. Do you believe this to be an IOLTA qualifying activity as defined by B&P 6213, State Bar Rule 3.672, and Eligibility Guideline 2.3?

If you answered no, remember to deduct expenditures related to this non-qualifying activity in the next IOLTA/EAF grant application cycle.

Yes

4. Partner Organizations:

Partner Organizations
State Bar Grantees
Other Organizations

Arnold & Porter
Legal Services of Eastern Missouri

5.a. Support Centers
Only: If this is an IOLTA qualifying activity, and no QLSP was listed as a partner organization, indicate how the activity is qualifying under B&P 6213.:

Suggested word limit: 500

6. Counties Impacted

Check all that apply

Out of State

7. Substantive Area

Check all that apply

Education

Describe
"Miscellaneous":

8. Constituencies Impacted

Check all that apply

Children/Youth, Homeless, Persons with Disabilities

9. Parties or Class Represented

St. Louis students, their mothers, and two organizational plaintiffs

a. If available, provide
the estimated total
number of people
impacted:

36055

10. Is the named client indigent?

This answer alone will not decide whether the activity is or is not a qualifying expense.

Yes

11. Explain how the majority of those impacted are indigent, as defined in B&P §6213(d)

If the majority of persons impacted are not indigent, type n/a.

The case is filed on behalf of two indigent mothers, students experiencing homelessness, and two organizational plaintiffs that serve indigent communities, and aims to help students experiencing homelessness, all of whom are indigent.

12. Describe the impact this case will have on indigent persons

If available, include the estimated number of total indigent persons impacted and how this was determined. If no impact on indigent persons, type n/a.

Students experiencing homelessness are an especially vulnerable population who experience trauma, violence, racism, and discrimination at higher levels than their peers. Because of the high levels of toxic stress in their lives, they are sick four times more often than other children and experience higher rates of absenteeism and mental health problems. This case aims to ensure that students experiencing homelessness are able to enroll in school and receive trauma-sensitive educational programming to learn and get an education equal to that of their non-homeless peers.

13. Briefly describe the legal issue(s) of the case and the overall goal(s)

On August 2018, Public Counsel filed a lawsuit on behalf of two students experiencing homelessness, their parents, and two non-profit organizations in St. Louis against Riverview Gardens School District and the State of Missouri over the failure to provide students experiencing homelessness basic access to public education. Under the McKinney-Vento Act, schools are required to provide homeless children immediate enrollment in school, the transportation they need to get there, and the resources they need to succeed. For years, Riverview Gardens School District and the State Board of Education in Missouri have failed to provide all three. Following settlement, the State of Missouri appealed the District Court's decision to award attorneys' fees, which we have been litigating in front of the Eighth Circuit.

14. List case outcomes

If case remains open, highlight accomplishments (if any) achieved during the evaluation year.

After mediating the case with Magistrate Judge Epps in the Western District of Missouri, we agreed upon and signed a Memorandum of Understanding leading to a Consent Decree that resolved the substantive components of the case. We have been litigating attorneys' fees since May 2020. In December 2021, the Eighth Circuit affirmed the District Court's decision granting us attorneys' fees in full.

15. If applicable, describe any economic benefit(s) achieved (client award and/or costs averted)

If the case remains open, but there is an expected future economic benefit, describe the estimated benefit. Report the information you have available (e.g., estimated range). Do not extrapolate.

There are substantial economic benefits to the state of Missouri in ensuring that students experiencing homelessness receive equal access to education.

a. Enter economic benefit amount, if applicable:

16. Total Staff Hours

Report total staff hours spent on this case in the evaluation year

42

17. Total Volunteer Hours

Report total volunteer hours spent on this case in the evaluation year. Enter 0 if there were no volunteer hours.

135

Additional Information from Asian Americans Advancing Justice – Los Angeles re: Redistricting Advocacy

We specifically targeted and worked with Asian American and Pacific Islander communities that have a high number of indigent, as well as immigrant and limited-English proficient, community members. For example, Asian Americans in the cities of Alhambra, Long Beach, Monterey Park, Rosemead, and San Gabriel have disproportionately high proportions of low-income households where 1/3rd to 1/2 of Asian Americans are low-income. Over 1/3rd of the Native Hawaiian and Pacific Islander community in the City of LA and Long Beach is low-income. Additionally, over 60% of Asian Americans and over 20% of Pacific Islanders in LA County are foreign-born, with over 70% of Asian American community members in the cities of Alhambra, Rowland Heights, and San Gabriel who are immigrants. Similarly, roughly 80% of Asian American community members in Los Angeles' Chinatown, Historic Filipino Town, Koreatown, and Thai Town are immigrants.

Organization:	Asian Americans Advancing Justice - Los Angeles
1. Advocacy activity name:	Redistricting
2. Advocacy activity status:	Completed
3. Advocacy type:	Administrative
4. Advocacy level:	All of the above

5. Do you believe this to be an IOLTA qualifying activity as defined by B&P 6213, State Bar Rule 3.672, and Eligibility Guideline 2.3?

If you answered no, remember to deduct expenditures related to this non-qualifying activity in the next IOLTA/EAF grant application cycle.

Yes

5. Partner Organizations:

Partner Organizations

State Bar Grantees

Advancing Justice - Asian Law Caucus
Santa Clara County Asian Law Alliance

Other Organizations

Jakara Movement
Hmong Innovating Politics
Council on American–Islamic Relations
A3PCON
Asian Solidarity Collective
Orange County Civic Engagement Table
California Common Cause
League of Women Voters

7. Counties Impacted

Check all that apply

*Statewide, Alameda, Contra Costa, Fresno, Los Angeles, Orange, Sacramento, San Diego, San Francisco, San Mateo

8. Substantive Area

Check all that apply

Miscellaneous

Describe
"Miscellaneous":

Voting Rights

9. Constituencies Impacted

Check all that apply

Other (Explain)

a. Other
Constituencies:

If the constituencies
impacted are not
included, please list
them.

All individuals in the state

10. Who benefitted from this advocacy

The population of California, and in particular the Asian American and Pacific Islander (AAPI) and Arab, Middle Eastern, Muslim, and South Asian (AMEMSA) populations, which we estimate to be approximately 7.9 million people. There was a particular focus on counties and localities with a high percentage of AAPI and AMEMSA residents.

a. If available, provide
the estimated total
number of people
impacted:

7900000

11. Explain how those impacted by this advocacy activity are indigent, as defined in B&P §6213(d)

If the majority of persons impacted are not indigent, type n/a.

Approximately 12% of CA's population is in poverty, or approximately 4.7 million people. According to a recent study by AAPI Data commissioned by The James Irvine Foundation (2019), almost 1 in 4 working AAPI people in California are struggling with poverty.

Our local advocacy, in particular, focused on AAPI communities that have a high number of indigent community members. In the San Gabriel Valley, nearly a third of Asian Americans are low-income. Over 66,700 Asian Americans in the San Gabriel Valley are living in poverty, including 15% of Asian American seniors and 17% of Vietnamese Americans. Language barriers prevent Asian Americans, Native Hawaiians, and Pacific Islanders from accessing critical services. Almost half (42%) of Asian Americans in the San Gabriel Valley are limited English proficient, and among Asian American seniors in the region, 73% are limited English proficient. In the Koreatown area, 22% of people are below poverty, in the Chinatown/Little Tokyo area 28.6% are below poverty, in Historic Filipinotown 26% are below poverty – all in comparison to 16% below poverty for LA County as a whole.

12. Describe the impact this advocacy activity will have on indigent persons

If available, include the estimated number of total indigent persons impacted and how this was determined.

Redistricting is the way we draw lines that determine our political districts that, in turn, affect our elected officials are. Our redistricting advocacy and line drawing is intended to empower AAPI & AMEMSA communities in CA while respecting the needs of Black, Latinx, LGBTQ, and environmental organizations. In doing this work, we and our partners paid close attention to ensuring that neighborhoods with high concentrations of indigent community members did not have to compete with or have their needs masked by being paired with significantly more affluent/wealthy communities in their districts.

13. Briefly describe the advocacy activity and the overall goal(s)

Include specific legislation, regulations, or agencies involved.

Our advocacy activities included the following:

- We collaborated with Black, Latinx, LGBTQ, and Environmental partner organizations to create district plans that protect AAPI and AMEMSA communities while respecting diverse community priorities.
- We engaged with the local partners to provide education about redistricting, how to optimally give comment to the California Citizens Redistricting Commission (CCRC), and what areas are at issue. We responded to inquiries from community members about the redistricting process and what efforts still needed.
- We engaged with local partners in LA and Orange counties to solicit and coordinate community input in several county and local redistricting efforts, particularly for LA County and the cities of Los Angeles, Long Beach, Buena Park, and La Mirada.
- We engaged with the California Citizens Redistricting Commission (CCRC) by submitting boundary files and monitoring commission meetings for AAPI and AMEMSA communities of interest (COI) and multiple district plans, while facilitating community members testimony.
- We delineated and submitted boundaries for over 63 AAPI and AMEMSA COIs from community partner/member input. We gave data-oriented oral testimony to support the COI testimonies that community partners gave in 5 of the 10 CCRC regions and submitted them via email to the commission. These COIs were also uplifted during live line drawing by the commission and real-time advocacy was done when the COIs were at risk of being cut.
- We monitored multiple redistricting commissions for compliance with statute in soliciting and considering community input.

14. List the outcomes achieved or expected to achieve

If ongoing, highlight accomplishments (if any) achieved during the evaluation year.

At the state level, several of the of the communities we sought to keep whole within electoral districts were kept whole. When communities are divided but neighboring communities are not, voters in these divided communities have their votes diluted to the degree that the interest of their community does not align with whoever they are lumped with. By keeping these communities whole, the voters there will be able to elevate their community's needs and have more responsiveness and better representation in their government.

Notable achievements include the preservation of most of the AAPI communities of the west San Gabriel Valley, of south Los Angeles county, and of the Little Tokyo, Thai Town, Hi Fi, Chinatown, and Koreatown communities of the City of Los Angeles City. Part of our advocacy included monitoring and responding to the redistricting procedures implemented in the jurisdictions on which we focused. Usually, casual feedback to commissions was sufficient to resolve the problem. We did issue a demand letter to Buena Park over their scheduling practices and map proposals, after which the city amended its practices.

15. If possible, describe any economic benefit achieved or anticipated economic benefit

If the activity is ongoing, but there is an expected future economic benefit, describe the estimated benefit. Report the information you have available (e.g., estimated range). Do not extrapolate.

If districts are drawn fairly and communities are given a voice through their elected officials who can advocate on their behalf, then there may be more programs and policies that support indigent communities and provide them with more economic support.

16. Total Staff Hours

Report total staff hours spent on this activity in the evaluation year

5,000

17. Total Volunteer Hours

Report total volunteer hours spent on this case in the evaluation year. Enter 0 if there were no volunteer hours.

0