

LEGAL SERVICES TRUST FUND COMMISSION MEETING

Meeting Summary and Action Items

Friday, June 17, 2022, 12:00 p.m.–4:00 p.m.

State Bar of California (Conference Call via Zoom)

Roll Call

Members Present

Co-Chair Richard Reinis
Co-Chair Kim Savage
Co-Vice Chair Christian Schreiber
Co-Vice Chair Christina Vanarelli
Amin Al-Sarraf
Jeff Ball
Pamela Bennett
Catherine Blakemore
Will Boschelli
Erica Connolly
Corey Freidman
Jason Galkin
Eric Isken
Hon. Diana Kruze
Joseph Lee
Tammy Mahoney

Advisors

Hon. Lisa Jaskol

Liaisons

Bonnie Hough, Judicial
Council of California

Public Members

Melanie Snider, Judicial
Council of California
Zach Newman, LAAC

Staff

Doan Nguyen
Elizabeth Hom
Christal Bundang
Michael Cheng
Erica Carroll
Brady Dewar
Danielle MacRae
Christopher McConkey

Members Absent

Banafsheh Akhlaghi
Louise Bayles-Fightmaster
Hon. Clifford Klein
James Meeker
Hon. Brad Seligman

OPEN SESSION

Co-Chair Reinis and Co-Chair Savage called the meeting to order at 12:01 p.m.

I. ROLL CALL

Roll call was taken, and quorum was established.

II. CALL FOR PUBLIC COMMENT

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

III. CONSENT

A. Approval of Meeting Summary and Action Items from March 11, 2022 Meeting

The Legal Services Trust Fund Commission (commission) approved the March 11, 2022 meeting summary and action items by majority roll call vote (Schreiber moved, Lee seconded). The vote was as follows:

Yes (13): Reinis, Savage, Schreiber, Vanarelli, Ball, Bennett, Blakemore, Boschelli, Connolly, Freidman, Isken, Lee, Mahoney

No (0): None

Abstention(s) (1): Al-Sarraf

Absent (5): Akhlaghi, Bayles-Fightmaster, Klein, Kruze, Meeker

IV. UPDATE ON GRANTS ADMINISTRATION

A. Report from Directors of the Office of Access & Inclusion

Program Director Doan Nguyen reported that the Office of Access & Inclusion (OA&I) recently hired new staff and is currently recruiting for three positions, Program Analyst, Senior Program Analyst, and Senior Financial Analyst. If the commission members know of any potential candidates interested in grants administration or policy work, please let her know.

Program Director Elizabeth Hom provided updates regarding the OA&I's diversity, equity, and inclusion projects. The State Bar will be publishing its Diversity Report card on the Legal Profession, which will provide demographic information about California's 190,000 active attorneys and offers calls to actions for legal employers and attorneys themselves to help support DEI in the profession. The State Bar will also be launching a leadership seal program, related to the calls to action in the report card that encourages legal employers to publicly commit to actions to advance DEI in their workplaces

B. Report on 2021 Annual Legal Services Trust Fund Program Audit Report

Program Director Nguyen and Program Supervisor Michael Cheng reported that there were no findings from the 2021 Annual Legal Services Trust Fund Program Audit. Cheng, who led the audit process, then provided a general overview for the commission.

V. BUSINESS

A. Review Conflicts of Interest Policy

Assistant General Counsel Brady Dewar, from the Office of General Counsel provided an overview of the Bagley-Keene requirements and Conflicts of Interest Policy. In addition to meetings being publicly noticed and accessible, Dewar noted that every teleconference meeting location must be identified in the meeting notice to the public. In order to avoid violation of Bagley-Keene requirements, commissioners should be careful when emailing and texting about State Bar business.

All commissioners are also subject to the conflicts of interest statutes and policies. Business & Professions Code §6036(a) pertains to financial conflicts and Business & Professions Code §6036(b) pertains to personal conflicts. In practice, commissioners

should abstain/recuse themselves from a given decision or portion of a decision due to a financial or personal conflict.

B. Discuss Legal Aid Funding in 2022-2023 State Budget

Program Director Nguyen shared the potential funding amounts for legal aid funding in the proposed 2022-2023 State Budget (AB 154), including:

- \$35,392,000 for Equal Access Fund (EAF) grants. This is the baseline distribution amount
- \$15 million for Consumer Debt Legal Assistance. This a new funding opportunity, and more information will be provided at the next commission meeting. Staff is anticipating that the funding opportunity will go through the Executive Committee.
- \$30 million for Homelessness Prevention 4 grants. This grant, will go through the HP Committee, who will present a timeline for approve at the next meeting
- \$20 million for Homelessness Prevention 3 grants, under the Coronavirus Recovery Act Funding. This money was already distribution as part of the three-year grant.
- \$55 million for 5 years for a statewide Loan Repayment Assistance Program. This program will be administered by the Student Aid Commission, but there will be an Advisory Board comprised of LSTFC, COAF, Access Commission, and LAAC.
- Approximately \$800,000 a year for a Summer Law Student Fellowship

Due to the increased amount of new funding opportunity, the commission will need to add one more meeting in December. While the funding is limited to the State Bar's IOLTA recipients, non-grantees are encouraged to potentially be subgrantees. Program Director Nguyen will send proposed dates and times after the meeting.

C. Approval of 2023 IOLTA Distribution and Recommendation to the Board of Trustees

Nguyen provided an overview the IOLTA statute, sources of funding that make up IOLTA grants, and the commissions' current reserve policy. Cheng discussed the 2019-2020 IOLTA projections, in which actual total net revenue was higher than projected. Cheng also explained the various underlying assumptions used for projecting the total 2022-2023 IOLTA revenue, including that there would be a period of declining Net IOTLA revenue, that interest rates would rise to at least 2.25 percent by end of the summer and potentially 3.00 or 2.75 percent by end of 2022, and that the total amounts on deposits in banks would decrease.

With these underlying assumptions, Cheng presented four possible scenarios – aggressive(A), moderate (B-2), moderate (B), and conservative(C) for the 2022-2023 revenue projections. In all models, staff anticipates a deficit of revenue. Staff recommendation was moderate scenario B-2, which projected a total ending net asset total \$30.98 million. With this recommendation, the 2023 IOLTA distribution would be the second highest distribution amount.

The commission discussed pros and cons of the scenarios presented and considered its priorities and how much to keep in reserve when deciding on an option. The commission did not agree with the staff recommendation and opted for a higher distribution amount and lower reserve amount.

The commission approved the following resolution by majority roll call vote (Ball moved, Friedman seconded).

RESOLVED, that the Legal Services Trust Fund Commission recommends that the Board of Trustees approve the 2023 IOLTA distribution in the amount of **\$50,585,254** with a projected reserve of **\$24,667,500**.

The vote was as follows:

Yes (11): Reinis, Savage, Schreiber, Al-Sarraf, Ball, Bennett, Boschelli, Connolly, Friedman, Galkin, Mahoney

No (2): Isken, Vanarelli

Abstention(s) (2): Kruze, Lee

Absent (5): Akhlaghi, Bayles-Fightmaster, Blakemore, Klein, Meeker

D. Discussion of Loan Repayment Assistance Program (LRAP) Proposal

Lead Program Analyst Erica Carroll provided an overview of the LRAP proposal. All applicants must be attorneys licensed in California or Registered Legal Services lawyers as an attorney, all loan types would be eligible for repayment assistance, and up to \$10,000 per year in the form a forgivable loan would be available to assist attorneys repaying student loans, which is calculated after subtracting loan amounts paid by other sources.

In terms of potential impact, the State Bar estimates that there are approximately 1,700 attorneys at IOLTA-funded organizations and 300 more at DSS-funded organizations. The estimated average yearly loan repayment amount would be \$7,375, and if structured as a 108(f) program, participating attorneys could have substantial tax savings.

Currently, the proposal is included in the Legislature's budget and awaiting the governor's review. If approved, the administering agency, the Student Aid Commission, would convene an advisory body to assist with the development of regulations, including representatives from the commission. Commissioners Galkin, Schreiber, and Kruze volunteered to serve on the Advisory Board on behalf of the commission.

E. Discuss and Approve Recommendations Regarding Audit-Related Issues in 2023 IOLTA/EAF Applications

Commissioner Erica Connolly and Carroll reported on two audit-related issues regarding the 2023 IOLTA/EAF applications. Carroll reminded the Commission that all organizations must submit an audit by May 1 and that staff has discretion to grant extensions through the application deadline. Beyond that deadline, the commission can grant extensions upon the showing of extraordinary circumstances.

The Eligibility and Budget Review Committee received 10 audit extension requests beyond the application deadline. After preliminary discussion at its April 29 meeting, the EBR Committee delegated responsibility to an ad hoc working group to develop recommendations. Out of the 10 requests, the working group found that 3 organizations had clear extraordinary circumstances and asked the remaining organizations to provide a letter for how they would ensure timely submitted audits in the future before determining whether granting an extension was appropriate. Carroll also noted that Santa Barbara County Immigrant Legal Defense Center, a new applicant, requested 10 days to obtain a reviewed financial statement, but has not responded to staff follow up.

The second audit-related issue was regarding reviewed financial statements. Pursuant to State Bar Rule 3.680 (E)(1), the threshold of expenditures for requiring audits is \$500,000. Organizations with less than \$500,000 are permitted to submit a reviewed financial statement. Coalition of California Welfare Rights Organizations, a support center, had historically never met the \$500,000 threshold and therefore submitted a reviewed financial statement as part of its 2023 IOLTA/EAF application. CCWRO's reported expenditures was \$503,654. Staff reached out to CCWRO who is willing engage with an auditor. The Eligibility and Budget Review Committee is recommending an extension until August 10. LAAC indicated its support of this recommendation.

The commission approved the following resolution by unanimous roll call vote (Boschelli moved, Isken seconded).

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) grants the audit extension request of the following organizations through the date requested by each organization upon a showing of extraordinary circumstances:

AIDS Legal Referral Panel; Asian Pacific Islander Legal Outreach; Central California Legal Services; California Rural Legal Assistance, Inc.; Disability Rights Legal Center; Harriet Buhai Center for Family Law; Justice and Diversity Center of the Bar Association of San Francisco; Open Door Legal; and Western Center on law and Poverty; and its

FURTHER RESOLVED, that the LSTFC denies the audit extension request of Santa Barbara County Immigrant Legal Defense Center for failure to demonstrate extraordinary circumstances; and it is

FURTHER RESOLVED, that the LSTFC does not accept the reviewed financial statement submitted by Coalition of California Welfare Rights Organizations (CCWRO) and instead grants an extension through August 10, 2022, to allow CCWRO to obtain an audited financial statement and provide written assurances and explanation regarding its compliance with the audit requirement in future years.

The vote was as follows:

Yes (13): Reinis, Savage, Schreiber, Vanarelli, Al-Sarraf, Bennett, Boschelli, Connolly, Galkin, Isken, Kruze, Lee, Mahoney

No (0): None

Abstention(s) (0): None

Absent (7): Akhlaghi, Bayles-Fightmaster, Ball, Blakemore, Friedman, Klein, Meeker

F. Review Data from the 2019/2020-2021 Homelessness Prevention (HP I) Final Reports

This agenda item will be discussed at the commission's August meeting.

VI. EXECUTIVE COMMITTEE

A. Approval of 2022-2025 CalHFA Foreclosure Prevention Grants

Senior Program Analyst Danielle MacRae provided an overview and update regarding the 2022-2025 CalHFA Foreclosure Prevention Grants. Due to the grant's expedited timeline, the CalHFA grants were reviewed and approved by the LSTFC Executive Committee on behalf of the commission.

The Executive Committee delegated authority to a scoring team comprised of two committee members and three staff. The scoring team met over five sessions to

score and develop funding recommendations. At its June 13 meeting, the Executive Committee approved funding 11 grantees (9 QLSPs and 2 Support Centers) a total of \$11,040,000.

Because CalHFA is federally funded, MacRae also described the State Bar's new Grants Management Assessment (GMA) tool, which assesses the levels of technical assistance and oversight needed to support grantees. Results from the GMA were discussed by the Executive Committee and will inform State Bar staff's technical assistance and oversight of CalHFA grantees throughout the grant period.

B. Update on Legal Services Trust Fund Commission Application Process

Nomination liaisons Co-Chair Savage and Vice Co-Chair Schreiber interviewed six potential candidates for the three vacancies on the commission. Their recommendations regarding potential candidates will be discussed at the August meeting.

VII. LIAISON REPORTS

A. Judicial Council Report on Program Developments

Liaison Bonnie Hough noted the anticipated increase in EAF funding and is looking forward to working with the commission.

B. Legal Aid Association of California Report on Program Developments

Liaison Zach Newman noted that LACC is happy to work with the State Bar and Judicial Council during this legislative and budgetary cycle

VIII. PRESENTATION BY GRANTEEES

A. Informational Presentation by Legal Aid at Work

Joan Graff, Jessica Carmona, and Kevin Clune gave an informal presentation of its organization, Legal Aid at Work (LAAW). LAAW is a qualified legal services provider, whose mission is to protect and expand the rights of low-wage workers, their families and communities by educating about legal rights, providing legal representation, and advocating for more responsive laws. LAAW has a broad scope of work, including litigation, direct representation, advice, counsel and referrals, policy

Clune shared LAAW's recent successes of recovering \$90,000 for a Sonoma Day Laborer that received death threats and immigration threats, helping pass legislature for COVID-19 paid sick leave (SB 95 and SB 114), and seeing a significant increase in its Workers Right Clinic clients served. Carmona provided information about LAAW's Central Valley Program, which spans 420 miles and is a housing

hotline that seeks to assist low-wage and undocumented workers with issues such as wraparound services, preventative care, and promoting client empowerment.

Graff closed the presentation by sharing some current challenges LAAW faces. Inflation has had a negative impact on both clients and hiring staff, the restrictive nature of grants that prevent hiring non-legal staff, and challenges transitioning from remote to in-person.

IX. ADJOURN

There being no other business, the meeting was adjourned at 4:06p.m.

DRAFT