



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 18–19, 2019

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**Title**

Equal Access Fund: Distribution of One-Time Funding for Landlord-Tenant Issues

**Agenda Item Type**

Action Required

**Effective Date**

July 19, 2019

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

June 28, 2019

**Recommended by**

Legal Services Trust Fund Commission  
Ms. Corey Friedman, Cochair  
Mr. Christian Schreiber, Cochair

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### Executive Summary

The Budget Act of 2019 provides a one-time \$20 million allocation to the judicial branch to augment the Equal Access Fund. Funds are to be used for qualified legal services providers and support centers to provide legal services to low-income persons for landlord-tenant issues, including legal assistance for counseling, renter education programs, and preventing evictions. The Budget Act provides that the Judicial Council allocate these funds to the State Bar, which distributes the funding to eligible legal services agencies. The State Bar's Legal Services Trust Fund Commission requests Judicial Council approval of the distribution of the \$20 million according to the formula specified in the Budget Act.

### Recommendation

The Legal Services Trust Fund Committee recommends, effective July 19, 2019, that the Judicial Council:

1. Direct staff to distribute Equal Access Funds to the State Bar for distribution to legal services agencies that meet the eligibility requirements set forth in the Budget Act; and
2. Report back to the Judicial Council on the initial grants made at its November 14–15, 2019 meeting.

## **Relevant Previous Council Action**

Since 1999, the state Budget Act has contained a provision for the allotment of \$10 million to an Equal Access Fund “to improve equal access and the fair administration of justice.” In 2018, an additional \$10 million ongoing was added to the fund. (Sen. Bill 840; Stats. 2018, ch. 29, pp. 10–14.)

In 2005, the Uniform Civil Fees and Standard Fee Schedule Act was approved by the Legislature and the Governor. That act established a new distribution of \$4.80 per filing fee to the Equal Access Fund. The estimated revenue from filing fees is \$4 million per year. Those revenues have been collected by the trial courts since January 2007.

The Budget Act requires the Judicial Council to distribute the Equal Access Fund monies to legal services providers through the State Bar Legal Services Trust Fund Commission. The State Bar created the commission to administer the law regulating attorneys’ interest-bearing trust accounts (IOLTAs). (Bus. & Prof. Code, § 6210 et seq.: State Bar, Rules Regulating Interest-Bearing Trust Fund Accounts for the Provision of Legal Services to Indigent Persons [adopted Sept. 1982, amended Mar. 2002], rule 4.)

The Budget Act states that “[t]he Judicial Council shall approve awards made by the commission if the council determines that the awards comply with statutory and other relevant guidelines...”<sup>1</sup> The Judicial Council may establish additional reporting or quality control requirements...” All recipients of Equal Access Funds submit annual reports on the services they provide.

The Chief Justice, as chair of the Judicial Council, appoints one-third of the voting members to the commission: five attorney members and two public members, one of whom is a court administrator. The Chief Justice also appoints three nonvoting judges to the commission: two trial court judges and one appellate justice.

The Judicial Council has approved the distribution of Equal Access Funds proposed by the Legal Services Trust Fund Commission for the past 19 years. This is the first time that this specific allocation for landlord-tenant matters has been included in the state Budget Act and come before the Judicial Council.

## **Analysis/Rationale**

Recognizing the need for stable housing for renters, Governor Gavin Newsom included \$20 million in his May Revision to the 2019–2020 budget for grants to legal services organizations to provide legal assistance to renters with landlord-tenant disputes, including counseling, renter education programs, and eviction prevention. The Legislature approved this funding request and included language in the 2019–2020 State Budget (AB 74) to effectuate the purposes of the funding and further define the types of services eligible for this new funding.

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<sup>1</sup> The state Budget Act of 2019 is found at [Link A](#).

**The Budget Act provides in provisions:**

6. ...\$20,000,000 shall be distributed by the Judicial Council through the State Bar of California pursuant to Provision 1 to qualified legal services projects and support centers to provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, including pre-eviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, and representation and legal services to improve habitability, increasing affordable housing, ensuring receipt of eligible income or benefits to improve housing stability, and homelessness prevention. Of this amount, \$150,000 shall be available, upon order of the Department of Finances, for administrative costs of the Judicial Council and the State Bar. The remaining funds shall be allocated as follows:

a) 75 percent shall be distributed to qualified legal services projects and support centers that currently provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, as set forth in Provision 6. To expedite the distribution of this percentage of the \$20,000,000, eligible programs shall be limited to those found eligible for 2019 IOLTA funding. Each eligible program shall receive a percentage equal to that legal service project's 2019 IOLTA allocation divided by the total 2019 IOLTA allocation for all legal services projects eligible for this funding, except that to ensure that meaningful funding is provided, a minimum amount of \$50,000 shall be allocated to each eligible program unless the program requests a lesser amount, in which case the additional funds shall be distributed proportionately to the other qualified legal services projects. These funds shall be distributed as soon as practicable after the effective date of this act and shall not supplant existing resources.

b) 25 percent shall be allocated through a competitive grant process developed by the Legal Services Trust Fund Commission of the State Bar to award grants to qualified legal services projects and support centers to provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, as set forth in Provision 6, to meet the needs of tenants not addressed by the formula provided in subdivision (a). The grant process shall ensure that any qualified legal service project or support center that received funding pursuant to subdivision (a) may only receive funding pursuant to this subdivision if that qualified legal services project or support center demonstrates that funds received under this subdivision will not be used to supplant existing resources, and will be used to provide services to tenants not otherwise served by that qualified legal service project or support center. The commission shall make the grant award determinations. In awarding these grants, preference shall be given to qualified legal aid agencies that serve rural or underserved communities and that serve clients regardless of immigration or citizenship status. Any funding not allocated pursuant to this competitive grant process shall be distributed pursuant to subdivision (a), except that there shall be no minimum funding for these funds.

7. Funds appropriated in Provision 6 are available for encumbrance and expenditure until June 30, 2021.

Based upon this language, and clear direction to distribute the funds as soon as possible, the Legal Services Trust Commission staff has contacted all 2019 IOLTA-funded programs in California. Each of these IOLTA-funded programs was previously approved as eligible for Equal Access Funds by the Judicial Council at its September 21, 2018 meeting. Programs have been surveyed to determine whether they currently provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes, including (1) preeviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, and representation; and (2) legal services to improve habitability, increase affordable housing, and ensure receipt of eligible income or benefits to improve housing stability and prevent homelessness.

Based on the results of that survey, the formula will be applied so that eligible programs will receive funds in a percentage equal to their 2019 IOLTA allocation divided by the total 2019 IOLTA allocation for all legal services projects and support centers eligible for this funding.

A minimum grant of \$50,000 will be allocated to each eligible program unless the program requests a lesser amount, in which case the additional funds shall be distributed proportionately to the other qualified legal services projects and support centers.

Programs will then be asked to submit a budget and plan to the Legal Services Trust Fund Commission for spending the funds in accordance with the statute and to document that they will not be using these funds to supplant existing funding.

The Legal Services Trust Fund Commission will approve the final formula allocations. The programs will be required to enter into a grant agreement with the State Bar that provides that (1) funds will not supplant existing resources, (2) the program will track grant funds separately from other grant funds, (3) the program will separately track and report on clients served and main benefits achieved for matters funded with these grants, and (4) the program will report to the State Bar at the conclusion of the grant period. Those results will then be provided to the Judicial Council. Grants will commence on October 1, 2019, and end on June 30, 2021.

An RFP process for the 25% discretionary funds is being developed and will come before the Judicial Council at its September 23–24, 2019 meeting.

Distributing the \$15,000,000 in formula funds to the commission will allow it to carry out the terms of the Budget Act by distributing the formula-based funds as quickly as possible, and will put the monies of the Equal Access Fund into the hands of legal services providers to supply legal assistance to tenants to address the need of stable housing for renters. The formula-based funds are to be distributed beginning October 1, 2019.

### **Policy implications**

This recommendation helps implement Goal I of the Judicial Council’s strategic plan—Access, Fairness, and Diversity—by increasing representation for low-income persons.

## **Comments**

The statutory scheme does not contemplate public comment.

## **Alternatives considered**

There are no viable alternatives to distributing the funds according to the recommendations of the Legal Services Trust Fund Commission. The Budget Act requires the council to approve the distribution if it finds that the statutory and other relevant guidelines are met.

## **Fiscal and Operational Impacts**

These grants require no court implementation. Council staff will work with the Legal Services Trust Fund Commission to oversee administration of the Equal Access Fund, including fulfilment of requirements for reports on the commission's administration of the fund. Staff will also provide support to the commission—including the third of its members appointed by the Chief Justice—to facilitate administration of the Equal Access Fund.

The recommendations contained in this report will have no direct fiscal effect on the courts; nevertheless, the courts will indirectly benefit from assistance provided to self-represented litigants. Council staff support will be covered by the provision for administrative costs in the Budget Act appropriation.

## **Attachments and Links**

1. Link A: State Budget Act of 2019

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB74](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB74)