



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 21-024

For business meeting on: January 21, 2021

Title

Equal Access Fund: Distribution of Partnership Grant

Agenda Item Type

Action Required

Effective Date

January 21, 2020

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

November 23, 2020

Recommended by

State Bar Legal Services Trust Fund
Commission
Banafsheh Akhlaghi, Chair

Contact

Bonnie Rose Hough, 415-865-7668
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Executive Summary

The Budget Act of 2020 includes over \$23 million in the Equal Access Fund for general distribution to legal services providers and support centers. The Budget Act provides that the Judicial Council distribute these funds through the State Bar's Legal Services Trust Fund Commission. The Judicial Council approved recommendations for distribution of those funds at its meeting of September 25, 2020. Shortly after that meeting, State Bar staff learned that one grant proposal had not been considered due to a computer error. After review of that proposal, the State Bar's Legal Services Trust Fund Commission recommends funding the project using funds held in reserve by the State Bar.

Recommendation

The Legal Services Trust Fund Commission recommends that the Judicial Council, effective January 21, 2021, approve the distribution of \$58,867 in Equal Access Partnership Grant funds to the Santa Clara University School of Law's Katharine & George Alexander Community Law Center for its program conducted jointly with the Superior Court of Santa Clara County to provide legal assistance to self-represented litigants.

Relevant Previous Council Action

The Judicial Council approved the recommendations of the Legal Services Trust Fund Commission for proposed distribution of Equal Access Partnership Grants for 2021 on September 25, 2020.

Analysis/Rationale

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 ongoing \$10 million was added to the fund.

In 2005, the Uniform Civil Fees and Standard Fee Schedule Act was approved by the California 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 for the fund is \$3,389,900 this 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.... The Judicial Council may establish additional reporting or quality control requirements....”¹ All recipients of partnership grants are required to conduct an annual evaluation of the effectiveness of the programs and submit their evaluation results to the commission by March 1 of the following year—for this round, 2022.

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 membership roster is included as Attachment B.

There are two grant programs, IOLTA-formula grants and partnership grants. The Budget Act provides that 90 percent of the funds be distributed to legal services agencies according to a statutory formula (the IOLTA-formula grants). The remaining 10 percent of the funds are to be distributed as partnership grants to legal services programs for projects conducted jointly with the courts to provide legal assistance to self-represented litigants. These grants are made on a

¹ Relevant portions of the Budget Act are provided in Attachment A to this report.

competitive basis after the Partnership Grant Committee of the Legal Services Trust Fund Commission reviews all applications.

As described in Attachment C, *Review and Approve Recommendation Regarding Santa Clara Law's Katharine & George Alexander Community Law Center's 2021 Partnership Grant*, during the course of a standard monitoring visit on September 17, 2020, Santa Clara University School of Law's Katharine & George Alexander Law Center inquired about the status of its 2021 project proposal. Upon further investigation, State Bar staff discovered that this application was submitted timely, but not received by the committee due to a technical error in the State Bar's grant management system, SmartSimple.

After review of the proposal, the State Bar Legal Services Trust Fund Commission has determined that the project, which has provided assistance to litigants with consumer debt issues for three years, meets the requirements for continuation funding and is a worthy project. Since 2021 funding has been allocated and approved, funding for this project will come from a small reserve that the State Bar maintains from Equal Access Funds that were either not fully allocated due to uncertainty regarding filing fee income or that have been returned from programs.

The commission's report regarding this Partnership Grant and the steps it has taken to rectify the computer error shows that the commission has followed the statutory requirements and the additional criteria adopted by the council at its August 1999 meeting. Therefore, it is appropriate for the Judicial Council to approve the distribution of \$58,867 recommended by the Legal Services Trust Fund Commission to Santa Clara Law's Katharine & George Alexander Community Law Center for its 2021 Partnership Grant for a Consumer Law Project in collaboration with the Superior Court of Santa Clara County.

Approving this grant will allow the commission to carry out the terms of the Budget Act and will provide critical assistance to self-represented litigants. The grant will be distributed on a calendar-year basis beginning January 2021.

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 recommendations have been approved by the Legal Services Trust Fund Commission and its Partnership Grants Committee, as required by law. 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

This partnership grant will require the Santa Clara court to participate in the joint project to cooperate in the manner proposed in the grant application as adapted to address any changes in response to the COVID-19 pandemic.

Council staff will work with the staff of the Legal Services Trust Fund Commission to oversee administration of the Equal Access Fund, including fulfillment 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 recommendation contained in this report will have no direct fiscal effect on the court. Nevertheless, the court 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

1. Attachment A: Relevant Portions of the 2020 State Budget Act
2. Attachment B: Legal Services Trust Fund Commission 2020–2021 Open Roster
3. Attachment C: *Review and Approve Recommendation Regarding Santa Clara Law's Katharine & George Alexander Community Law Center's 2021 Partnership Grant*

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL NO. 89

CHAPTER 7

An act to amend the Budget Act of 2020 by amending Items 0250-001-0001, 0250-101-0001, 0250-101-0932, [etc.] of, that act, relating to the state budget, and making an appropriation therefor, to take effect immediately, budget bill.

[Approved by Governor June 29, 2020. Filed with Secretary of State June 29, 2020.]

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

The Budget Act of 2020 made appropriations for the support of state government for the 2020–21 fiscal year.

This bill would amend the Budget Act of 2020 by amending items of appropriation and making other changes.

This bill would declare that it is to take effect immediately as a Budget Bill.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

[....]

0250-101-0001—For local assistance, Judicial Branch 35,786,000

Schedule:

(1) 0150010-Support for Operation of Trial Courts..... 7,234,000

(2) 0150051-Child Support Commissioner Program (AB 1058) 54,332,000

(3) 0150055-California Collaborative and Drug Court Projects 5,748,000

(4) 0150075-Grants—Other 8,586,000

(5) 0150083-Equal Access Fund 20,392,000

(6) Reimbursements to 0150051-Child Support Commissioner Program (AB 1058) –54,332,000

(7) Reimbursements to 0150055-California Collaborative and Drug Court Projects –4,588,000

(8) Reimbursements to 0150075-Grants—Other –1,586,000

Provisions:

1. In order to improve equal access and the fair administration of justice, the funds appropriated in Schedule (5) are to be distributed by the Judicial Council through the Legal Services Trust Fund Commission to qualified legal services projects and support centers as defined in Sections 6213 to 6215, inclusive, of the Business and Professions Code, to be used for legal services in civil matters for indigent persons. The Judicial Council shall approve awards made by the commission if the council determines that the awards comply with statutory and other relevant guidelines. Ten percent of the funds in Schedule (5) shall be for joint projects of courts and legal services programs to make legal assistance available to pro per litigants and 90 percent of the funds in Schedule (5) shall be distributed consistent with Sections 6216 to 6223, inclusive, of the Business and Professions Code. The Judicial Council may establish additional reporting or quality control requirements consistent with Sections 6213 to 6223, inclusive, of the Business and Professions Code.

[....]

0250-101-0932—For local assistance, Judicial Branch, payable from the Trial Court Trust Fund 2,620,207,000

Schedule:

(1) 0150010-Support for Operation of Trial Courts 2,030,956,000
 (2) 0150019-Compensation of Superior Court Judges 395,802,000
 (3) 0150028-Assigned Judges 29,812,000
 (4) 0150037-Court Interpreters 131,380,000
 (5) 0150067-Court Appointed Special Advocate (CASA) program 2,713,000
 (6) 0150071-Model Self-Help Program 957,000
 (7) 0150083-Equal Access Fund 5,482,000
 (8) 0150087-Family Law Information Centers 345,000
 (9) 0150091-Civil Case Coordination 832,000
 (10) 0150095-Expenses on Behalf of the Trial Courts 21,929,000
 (11) Reimbursements to 0150010-Support for Operation of Trial Courts –1,000

Provisions:

[....]

8. In order to improve equal access and the fair administration of justice, the funds appropriated in Schedule (7) are available for distribution by the Judicial Council through the Legal Services Trust Fund Commission in support of the Equal Access Fund Program to qualified legal services projects and support centers as defined in Sections 6213 to 6215, inclusive, of the Business and Professions Code, to be used for legal services in civil matters for indigent persons. The Judicial Council shall approve awards made by the commission if the council determines that the awards comply with statutory and other relevant guidelines. Upon approval by the Administrative Director, the Controller shall transfer up to 5 percent of the funding appropriated in Schedule (7) to Item 0250-001-0932 for administrative expenses. Ten percent of the funds remaining after administrative costs shall be for joint projects of courts and legal services programs to make legal assistance available to pro per litigants and 90 percent of the funds remaining after administrative costs shall be distributed, consistent with Sections 6216 to 6223, inclusive, of the Business and Professions Code. The Judicial Council may establish additional reporting or quality control requirements, consistent with Sections 6213 to 6223, inclusive, of the Business and Professions Code.

9. Funds available for expenditure in Schedule (7) may be augmented by order of the Director of Finance by the amount of any additional resources deposited for distribution to the Equal Access Fund Program in accordance with Sections 68085.3 and 68085.4 of the Government Code. Any augmentation under this provision shall be authorized not sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations, the chairpersons of the committees and appropriate subcommittees that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or the chairperson's designee, may determine.

[....]

Source: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB89#:~:text=The%20Budget%20Act%20of%202020%20made%20appropriations%20for%20the%20support,immediately%20as%20a%20Budget%20Bill.

**LEGAL SERVICES TRUST FUND COMMISSION
2020 - 2021 OPEN ROSTER**

Banafsheh Akhlaghi, Chair (2023) email: bakhlaghi1600@gmail.com (Judicial Council appointee)	J. Eric Isken, Vice-Chair (2024) Retired email: eric.isken@outlook.com (State Bar appointee)
Amin Al-Sarraf (2024) email: aalsarraf@glaserweil.com (State Bar appointee)	Kim Bartleson (2021) email: kimb@humboldtcourt.ca.gov (Judicial Council appointee)
Hon. Louise Bayles-Fightmaster (2021) email: lbfjd@yahoo.com (Judicial Council appointee)	Pamela M. Bennett (2022) email: pambers1962@gmail.com (State Bar appointee)
Will Boschelli (2023) email: william.boschelli@gmail.com (State Bar appointee)	Erica Connolly (2022) email: Erica.connolly@doj.ca.gov (State Bar appointee)
Prof. Herman L. DeBose (2021) email: herman.debose@csun.edu (Judicial Council appointee)	Prof. Rebecca Delfino (2021) email: Rebecca.Delfino@lls.edu (Judicial Council appointee)
Corey N. Friedman, (2022) email: cfriedman@dir.ca.gov (Judicial Council appointee)	Zahirah Mann (2023) email: mann@rmpf.org (State Bar appointee)

**LEGAL SERVICES TRUST FUND COMMISSION 2019-2020
OPEN ROSTER**

Prof. James Meeker (2023) email:jwmeeker@uci.edu (State Bar Appointee)	Debra Meyers (2023) email: debrakmeyers@gmail.com (Judicial Council appointee)
Bob Planthold (2023) email: political_bob@att.net (State Bar appointee)	Richard G. Reinis (2022) email: rreinis@thompsoncoburn.com (State Bar appointee)
Kim Savage (2022) email: kim@kimsavagelaw.com (State Bar appointee)	Christian Schreiber (2023) email: christian@osclgal.com (State Bar appointee)
Christina S. Vanarelli (2022) email: Christina@YourVenturaCountyLawyer.com (State Bar appointee)	
<u>ADVISOR</u> Hon. Lisa R. Jaskol (2022) email: LJaskol@lacourt.org (Judicial Council appointee)	<u>ADVISOR</u> Hon. William J. Murray, Jr. (2023) email:william.murray@jud.ca.gov (Judicial Council appointee)
<u>ADVISOR</u> Hon. Brad Seligman (2021) email: bseligman@alameda.courts.ca.gov (Judicial Council appointee)	

**Attachment C Review and Approve Recommendation Regarding Santa Clara Law's
Katharine & George Alexander Community Law Center's 2021 Partnership
Grant**



The State Bar of California

DATE: November 13, 2020

TO: Members, Partnership Grants Committee
Members, Legal Services Trust Fund Commission

FROM: Christal Bundang, Senior Program Analyst, Office of Access & Inclusion
Christine Holmes, Senior Program Analyst, Office of Access & Inclusion

SUBJECT: Review and Approve Recommendation Regarding Santa Clara Law's Katharine
& George Alexander Community Law Center's 2021 Partnership Grant

EXECUTIVE SUMMARY

Each year, the Partnership Grants Committee (Committee) recommends a slate of partnership grants to the Legal Services Trust Fund Commission. These grants are specifically directed toward services for self-represented litigants, provided at or near courthouses, and in partnership with the court. Following the August 11, 2020 Committee meeting, August 14, 2020 Legal Services Trust Fund Commission meeting, and September 24, 2020 Judicial Council meeting, thirty-five projects were approved for 2021 Partnership Grant funding for a total of \$2,423,410.

During the course of a standard monitoring visit on September 17, Santa Clara Law's Katharine & George Alexander Community Law Center (KGACLC) inquired about the status of its 2021 project proposal. Upon further investigation, staff discovered that this application was submitted timely, but not reviewed by the Committee due to a technical error in the State Bar's grant management system, SmartSimple.

This memo seeks to describe the steps taken to remedy this situation and recommends a tentative allocation of \$58,868 for KGACLC's 2021 Consumer Debt Project. Since 2021 funding has been allocated and approved, funding for this project will come from reserves.

BACKGROUND

The deadline to submit 2021 Partnership Grant Proposals was March 16, 2020. KGACLC submitted a proposal for its 2021 Consumer Debt Project on March 12.

As part of IOLTA/EAF grant requirements, KGACLC was scheduled for a monitoring visit on September 17. During the visit, KGACLC inquired about the status of its 2021 partnership grant proposal since it had not received any updates.

Following the visit, staff discovered that KGACLC's partnership grant application was erroneously coded in SmartSimple under the 2020 grant year, and therefore not included in the 2021 list of applications on SmartSimple. Staff was not aware of this miscoding and after investigating the issue with SmartSimple, attributed the error to a cache issue.

Since KGACLC submitted a timely application and was not at fault for the error, staff notified the Committee Chair Christina Vanarelli and Judicial Council and proceeded to review KGACLC's 2021 project proposal. Staff also confirmed that there would be sufficient reserves available for KGACLC's requested grant award of \$60,000. Staff informed KGACLC of the next steps for the application review on September 30.

All submitted partnership grant proposals are initially reviewed by staff and a committee member. Committee members are assigned to review teams to discuss any issues and propose tentative funding ranges. The funding recommendations are then presented to the full committee and approved by the Legal Services Trust Fund Commission. The Judicial Council then considers the Commission's recommendations and has final authority to approve the partnership grants. To ensure parity in the process, KGACLC's proposal has been reviewed in these steps on an expedited timeline.

In 2020, all projects were given an opportunity to revise their applications to reflect any changes to their proposed 2021 projects in light of COVID-19. KGACLC was offered this same opportunity and updated its application accordingly. Committee Chair Christina Vanarelli and Committee Member Chris Schreiber served as the ad hoc review team and reviewed the proposal. Since there were no substantive issues with KGACLC's application, the review team confirmed its tentative recommendation via email by October 19.

DISCUSSION

The purpose of KGCLAC's 2021 Consumer Debt Clinic is to provide free legal services at the Santa Clara County Superior Court Self-Help Center. Services include providing 1) assistance for self-represented debt collection defense litigants; 2) educational information on rights and responsibilities; and 3) legal advice to individuals who require assistance for problems that have already arisen in consumer transactions.

KGACLC's Consumer Debt Clinic is an existing project and is requesting funding for a fourth year. Since the committee did not decrease funding for other existing projects in their fourth

year, the review team did not recommend decreasing KGCLC's allocation. Another consideration was that all 2021 partnership grants were reduced by 1.89 percent because actual funding available was lower than initially anticipated. The review team agreed that it would be equitable to give KGCLAC the same cut, which would result in a grant award of \$58,868, rather than the full \$60,000 requested.

If approved, Judicial Council will bring KGCLAC's 2021 partnership grant recommendation for approval at its January 22, 2020 meeting. Following approval, KGCLAC will need to submit a budget revision and all necessary documents before funds are distributed.

In order to prevent a reoccurrence of this technical error in future grant years, staff will update internal administrative procedures to manually review prior year proposals on SmartSimple before assigning new project proposals to Committee members.

RECOMMENDATIONS

Should the Partnership Grants Committee concur with the review team's recommendation, passage of the following resolution is recommended:

RESOLVED, that the Partnership Grants Committee approves the allocation recommendation of \$58,868 for Santa Clara Law's Katharine & George Alexander Community Law Center's 2021 Partnership Grant.

Should the Legal Services Trust Fund Commission concur with the Partnership Grants Committee's recommendation, passage of the following resolution is recommended:

RESOLVED, that the Legal Services Trust Fund Commission approves the Partnership Grants Committee recommendation regarding Santa Clara Law's Katharine & George Alexander Community Law Center's 2021 Partnership Grant.

ATTACHMENT LIST

- A.** 2021 Partnership Grant Application – Santa Clara Law's Katharine & George Alexander Community Law Center