



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.:21-152*

For business meeting on October 1, 2021

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**Title**

Equal Access Fund: Distribution of Funding  
for Housing Issues

**Agenda Item Type**

Action Required

**Effective Date**

October 1, 2021

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

None

**Date of Report**

August 30, 2021

**Recommended by**

Legal Services Trust Fund Commission  
Banafsheh Akhlaghi, Cochair  
J. Eric Isken, Cochair

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### Executive Summary

The Budget Act of 2021 (Assem. Bill 164, Stats. 2021, ch. 84) includes \$40 million of federal funding from the Coronavirus Fiscal Recovery Fund of 2021 in the Equal Access Fund for distribution to legal services providers and support centers to assist with issues relating to housing matters including eviction defense or other landlord-tenant disputes, or services to prevent foreclosures for homeowners. The State Bar's Legal Services Trust Fund Commission requests approval of the distribution of \$40 million, less administrative costs, according to the formula specified in the Budget Act.

### Recommendation

The Legal Services Trust Fund Commission recommends that the Judicial Council, effective, October 1, 2021:

1. Approve distribution of \$40 million in equal access housing funds to the State Bar for distribution to legal services agencies that meet the eligibility requirements stated in the

Budget Act, with 75 percent of the funds distributed by formula and 25 percent through a competitive request for proposal process; and

2. Direct staff to report back to the Judicial Council at its March 2022 meeting on the grants made.

### **Relevant Previous Council Action**

The Budget Act requires the Judicial Council to distribute 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. (Bus. & Prof. Code, § 6210 et seq.).

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.” All recipients of funds from the Equal Access Fund 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 Budget Act of 2019 provided a one-time \$20 million allocation to the judicial branch to augment the Equal Access Fund. Funds were 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 prevention of evictions. At its business meeting on July 24, 2019, the Judicial Council authorized staff to distribute that one-time allocation to the State Bar for distribution to legal services agencies that meet the eligibility requirements stated in the Budget Act. The Judicial Council accepted a report on the distribution of the funds at its meeting on January 17, 2020.

The Budget Act of 2020 allocated \$31 million to the Judicial Council for qualified legal services projects and support centers to provide eviction defense or other tenant defense assistance in landlord-tenant disputes, including pre-eviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, and representation. The Judicial Council approved distribution of the funds at its meeting on September 25, 2020.

The Judicial Council has approved the distribution of monies from the Equal Access Fund proposed by the Legal Services Trust Fund Commission for the past 21 years.

### **Analysis/Rationale**

The Budget Act of 2021 (AB 164) provides for distribution of \$40 million, payable from the Coronavirus Fiscal Recovery Fund of 2021, to legal services providers and support centers to

assist with a wide range of legal issues related to helping low-income persons obtain or retain housing.

Funds are to be distributed by the Judicial Council through the Legal Services Trust Fund Commission of the State Bar to qualified legal services projects and support centers to provide eviction defense, other tenant defense assistance in landlord-tenant rental disputes, or services to prevent foreclosure for homeowners, 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, legal help for persons displaced because of domestic violence, and homelessness prevention.

### ***Formula allocations***

Seventy-five percent of the funds are to 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 described above. Eligible programs are limited to those found eligible for 2021 Interest on Lawyer Trust Accounts (IOLTA) funding. Each eligible program will receive a percentage equal to that legal services project's 2021 IOLTA allocation divided by the total 2021 IOLTA allocation for all legal services projects eligible for this funding, except that to ensure meaningful funding is provided, a minimum amount of \$50,000 will be allocated to each eligible program unless the program requests a lesser amount, in which case the additional funds will be distributed proportionally to the other qualified legal services projects. These funds must be distributed as soon as practicable.<sup>1</sup>

### ***Competitive grants***

Twenty-five percent of the funds are to 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 service projects and support centers to provide the legal services described above to meet the needs of tenants which are not addressed by the formula funding and must serve tenants not otherwise served by that project or support center. Preference for grants will be given to qualified legal aid agencies that serve rural or underserved communities. Any funding not allocated through this competitive process will be distributed by the formula used for the 75 percent allocation.<sup>2</sup>

### ***Annual report***

The Budget Act requires the State Bar to provide an annual report to the Judicial Council that includes funding allocations, annual expenditures, and program outcomes by service area and service provider. The Judicial Council must provide the report to the Department of Finance by January 1 of each year for the prior fiscal year. The Department of Finance is also requiring that the Judicial Council provide quarterly reports including financial data and performance

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<sup>1</sup> Stats. 2021, ch. 21, item 0250-162-8506, provision 2(a).

<sup>2</sup> *Id.*, provision 2(b).

indicators from this program. The State Bar will provide the Judicial Council with data for these reports using the established reporting framework in the Equal Access Program including budget and expenditure data, applicable outcome measures reported in legal services standardized reporting, state-level performance measures, and main benefits scores. Additional reporting needed to comply with the federal requirements for reporting will be identified and included in contracts with the State Bar and grantees. Up to 2.5 percent of the funds are available for administrative costs of the Judicial Council and the State Bar.

The Legal Services Trust Fund Commission staff has contacted all 2021 IOLTA-funded programs in California. Each of these programs was previously approved as eligible for funds from the Equal Access Fund by the Judicial Council at its meeting on September 25, 2020, to determine whether they provide eviction defense or other tenant defense assistance in landlord-tenant rental disputes as described in the statute.

Eligible 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 Budget Act and federal regulations 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 and the competitive grants. 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 regularly to comply with federal guidelines. Those results will then be provided to the Judicial Council. Grants will commence on January 1, 2022, which is as soon as practicable as required by the Budget Act.

### **Policy implications**

This recommendation helps implement Goal I of the judicial branch'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 Housing Program, 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 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 appropriation.

### **Attachments and Links**

1. Link A: Assembly Bill 164 (Stats. 2021, ch. 21),  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB164](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB164)