

## TITLE 3. PROGRAMS AND SERVICES

### 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) Once staff makes an initial finding of noncompliance, staff will provide written notice of the finding to the recipient either through a monitoring visit report or other correspondence.

- (1) For noncompliance issues identified during a monitoring visit, grant recipients shall have 60 days from the date specified on the notice to respond to the monitoring visit report with additional information and/or a corrective action plan to resolve the finding(s). Failure to respond timely may result in an additional finding of noncompliance or further action pursuant to Rule 3.661(C)(7).
- (2) For noncompliance issues identified outside of a monitoring visit, staff will provide written notice to the recipient and request a response within a reasonable period of time. The response time shall not be less than ten business days except in extraordinary circumstances, such as a contractual obligation or a Commission meeting. Failure to respond timely may result in an additional finding of noncompliance or further action pursuant to Rule 3.661(C)(7).
- (3) Staff will review any response provided and make a determination whether the issue(s) has been resolved. If the issue(s) is resolved, no further action is needed, and the recipient will be notified. Staff will notify the Commission of significant noncompliance issues that are resolved through this process. If the noncompliance issue(s) is not resolved, then staff may take the following additional steps:
  - (a) Informing and/or meeting with the grant recipient's Board of Directors;
  - (b) Requiring additional reporting and/or monitoring; and/or
  - (c) Requiring the grant recipient to obtain technical and/or management assistance.
- (4) If the noncompliance issue(s) cannot be or is not resolved through staff action as set forth in Rule 3.661(C)(3), grant recipients will be notified that the matter will be referred to the Commission for further action pursuant to Rule 3.661(C)(7). The matter will be addressed at the next Commission meeting, provided it is practicable.
- (5) Grant recipients will be provided the date and time of the Commission meeting(s) where the issue(s) will be reviewed and will allow the recipient to submit written or oral comments pursuant to the State Bar public comment process.
- (6) The Commission will make the final determination whether the recipient is in compliance with the Trust Fund Requirements and grant terms.

- (7) If the Commission determines the recipient is not in compliance with the Trust Fund Requirements or grant terms, the Commission may require additional action that may include one or more of the following:
- (a) Making grant disbursements as reimbursements instead of advanced payments;
  - (b) Converting grant payments from annual or quarterly payments to monthly payments;
  - (c) Requiring the grant recipient to return funds not spent in accordance with its approved budget;
  - (d) Requiring revision(s) to expenditure report(s) due to impermissible use of funds;
  - (e) Suspending the grant;
  - (f) Initiating suspension of the grant recipient;
  - (g) Imposing any consequences provided by applicable federal law and regulations for federal grants;
  - (h) Terminating a grant for noncompliance or taking other action in accordance with Article 4 or this chapter; and/or
  - (i) Other action the Commission determines as appropriate.

If the State Bar has reason to suspect a grant recipient has engaged in fraud or other serious violations of law, staff will directly inform the relevant committee or the Commission and may notify law enforcement as appropriate. Additionally, egregious concerns about fraud may result in immediate withholding of payment.

- (D) Quality control standards (also known as “quality control procedures”) are safeguards (e.g., supervision and policies) that help ensure that grant recipients can provide effective, high-quality, and professional civil legal aid services while protecting eligible clients. Quality control standards and procedures also aim to ensure that grant recipients are managed effectively with adequate governance and oversight. To be approved by the Commission, an applicant's quality control standards and procedures must be sufficient to allow the applicant to credibly demonstrate compliance with all IOLTA statutory requirements, and State Bar Rules for the Legal Services Trust Fund Program.

The most recent version of the Standards for the Provision of Civil Legal Aid adopted by the American Bar Association’s House of Delegates, 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.

*Rule 3.661 adopted effective March 6, 2009; amended effective November 16, 2023; amended effective November 21, 2025.*

### **Rule 3.662 Legal Services Trust Fund Commission membership and terms**

The Commission consists of 21 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.<sup>1</sup> 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 14 voting members, 10 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 four years. The Board may extend a term by an additional year 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.; amended effective May 13, 2021.*

## **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 in California by a nonprofit law school accredited by the State Bar.<sup>2</sup> A qualified legal services project that is a California nonprofit corporation with operations outside California may be

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<sup>1</sup> Business & Professions Code § 6213(d).

<sup>2</sup> Business & Professions Code § 6213(a).

considered as meeting the statutory requirement if it otherwise meets Trust Fund Requirements and expends Trust Fund Program grant funds only in California.

- (1) Law school clinical programs must provide copies of their or their host institution's Articles of Incorporation and determination letters from the Internal Revenue Service and the State Franchise Tax Board to evidence their nonprofit status.
- (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.<sup>3</sup>

*Rule 3.670 adopted effective March 6, 2009; amended effective November 16, 2023.*

### **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.<sup>4</sup> A qualified legal services project applying for Trust Fund Program funds is presumed to have such a purpose and function if 75 percent or more of its expenditures for the most recent reporting year were incurred for providing free civil legal services to indigent persons. The calculation of 75 percent 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.<sup>5</sup> A qualified support center applying for funds is presumed to have such a primary purpose and function if 75 percent or more of its budget for the fiscal year for which it is seeking funds is designated to provide such support services, and 75 percent 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 percent 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; amended effective July 1, 2023.*

### **Rule 3.672 Delivery of civil legal services**

- (A) "Civil" refers to legal issues, questions, or processes that arise under any body of civil

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<sup>3</sup> Business & Professions Code § 6213(b).

<sup>4</sup> Business & Professions Code § 6213(a)(1).

<sup>5</sup> Business & Professions Code § 6213(b).

law. The provision of legal assistance with respect to criminal proceedings is not civil legal services. Proceedings concerning expungements, record sealing or clearance proceedings not requiring a finding of factual innocence, or infractions are not criminal proceedings, and legal services related thereto are civil legal services. Legal services related to collateral civil issues such as public access, disability accommodations, and language access that arise during criminal proceedings are not legal assistance with respect to criminal proceedings, provided the civil issues do not directly affect determination of guilt, sentencing, or other disposition of the criminal proceeding.

- (B) “Legal services” means work that uses legal knowledge and skills to create, advance, protect, or enforce the legal rights of clients or communities. This encompasses legal representation and non-representational services for individuals and groups. Examples of non-representational services include providing legal information, advice, trainings, and self-help resources. Non-representational services can also include studying legal needs and outcomes to inform legal aid delivery, investigating legal violations, and advocating directly to government bodies on issues of importance to the legal rights of clients or communities. Representation and non-representational services must be performed or supervised by an attorney. “Legal services” may also include complementary services provided they advance a legal outcome and serve as an integral part of an attorney’s strategy in a legal matter or case, and the attorney directs the work in that matter or case. Complementary services and other services by non-attorneys must uphold the attorney-client relationship and avoid interfering with the attorney carrying out their obligations to the client.<sup>6</sup>
- (C) “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 civil 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.<sup>7</sup>

*Rule 3.672 adopted effective March 6, 2009; amended effective January 25, 2019; amended effective July 1, 2023.*

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<sup>6</sup> Business & Professions Code § 6213(a).

<sup>7</sup> Business & Professions Code § 6213(b).

### **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.<sup>8</sup> Reasonable administrative expenditures and overhead required to deliver such services meet the statutory requirement. For law school clinical programs, clinical classes in which only clinic students can enroll, and in which clinic participation is an expectation of the class, and which advance the clinic's provision of civil legal services to indigent persons pursuant to Business and Professions Code section 6218(a) are assumed to qualify.
- (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,<sup>9</sup> 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 free civil legal services to indigent clients in California.<sup>10</sup> Recipients must maintain complete records of all such fees. Recipients must certify, with their annual IOLTA/EAF application, that any fee generating case which received IOLTA/EAF funds is exempt.
- (C) Except as described in Business and Professions Code section 6213(e)(1)-(4), a fee-generating case means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client.

*Rule 3.673 adopted effective March 6, 2009; amended effective November 16, 2023.*

### **Rule 3.674 Income and indigent persons**

- (A) "Income" means income as defined in section 1611.2(i) of Title 45 of the Code of Federal Regulations. If an applicant for services identifies as having a disability, income eligibility is calculated only after deducting the costs of medical and other disability-related special expenses, and in the case of veterans with a service-related disability, any disability compensation from the United States Veterans Administration.
- (B) Any of the following are considered "indigent persons"

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<sup>8</sup> Business & Professions Code §§ 6216 and 6223.

<sup>9</sup> Business & Professions Code § 6213(e)(1).

<sup>10</sup> Business & Professions Code § 6223.

- (1) Persons whose income is 200 percent or less of the current poverty threshold established by the United States Office of Management and Budget;
  - (2) Persons eligible for Supplemental Security Income;
  - (3) Persons who are 60 years of age or older;
  - (4) Persons who identify as having a developmental disability as defined in section 15002 of Title 42 of the United States Code.
- (C) All legal services projects may use the definition of indigent persons as described Rule 3.674(B) to establish eligibility as a qualified legal services project and to calculate their expenditures on free civil legal services for indigent persons. Only qualified legal services projects that the Legal Services Trust Fund Commission has deemed eligible for a pro bono allocation under Business and Professions Code section 6216(b)(1)(B) may use the definition of “indigent person” available “to a project that provides free services of attorneys in private practice without compensation” under Business and Professions Code section 6213(d).
- (D) Pursuant to Business and Professions Code section 6218, qualified legal services projects shall establish financial eligibility guidelines consistent with this rule and other applicable law and regulations. Such guidelines may include provisions allowing qualified legal services projects to disregard income—or make income exceptions—in certain extenuating circumstances, including, but not limited to, the income of resident household members where intimate partner violence has occurred. The Legal Services Trust Fund Commission may reject such eligibility guidelines if it determines they are inconsistent with Business and Professions Code sections 6218(a) or 6213(d).
- (E) Civil legal services provided by legal services projects to organizational clients will be considered services to “indigent persons” if the services provided to the organizational client will primarily benefit persons who are indigent under Business and Professions Code section 6213(d). Factors to be considered in determining whether the organizational client provides services primarily to indigent persons include, but are not limited to
- (1) whether the organization is a tax-exempt nonprofit corporation;
  - (2) the organization’s primary purpose as stated in its articles of incorporation or by-laws;
  - (3) the number and percentage of indigent persons on the board of directors or principal advisory body of the organization; and
  - (4) the percentage of the organizational client’s members who are indigent persons.

- (F) A legal services project providing civil legal services for the benefit of a group or class of persons beyond the legal services project's individual or organizational clients may consider the services as civil legal services provided to indigent persons only if the legal matter is primarily for the benefit of indigent persons or disproportionately impacts indigent persons.
- (1) If a legal services project provided services to a group or class of persons in the prior year, the legal services project must complete a report describing the 10 activities that received the most support, as determined by the staff hours spent on each activity, limited to activities that met or exceeded 50 hours, unless the Legal Services Trust Fund Commission establishes a different reporting requirement. This report will be submitted for Legal Services Trust Fund Commission review as part of the application process under Rule 3.680.
  - (2) If a legal services project must complete a report under Rule 3.674(F)(1), it should demonstrate through objective information that a majority of persons impacted by the activity are indigent. A legal services project may meet this requirement by providing quantitative data based on independent research, internal organizational data, or data provided by other legal service providers or community-based organizations in the area where the legal services project operates, to demonstrate that a majority of those impacted by the activity are indigent.
  - (3) If a legal services project cannot demonstrate that a majority of those impacted by the activity are indigent, it must demonstrate that the activity has a disproportionate impact on indigent persons based on the nature of the activity and the specific anticipated outcomes for indigent persons if the activity succeeds. It must use independent research, its own internal data, or data from other legal service providers or community-based organizations to demonstrate a nexus between the legal issue addressed through the activity and the identified needs of the legal services project's client constituency.

*Rule 3.674 adopted effective July 1, 2023.*

### **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.
- (1) A law school clinical program must demonstrate that it meets all of the following criteria: an identifiable and dedicated location designed to provide civil legal services to indigent Californians; dedicated staffing (whether full- or part-time) whose job duties exclusively serve the law school clinical program; a clinical director (regardless of title) with authority over operations and staffing of non-faculty positions; segregation of fiscal records and activities (including, but not limited to, the ability to provide audited confirmation of clinic expenditures); and proof of institutional oversight such as by identifying specific position(s) and/or mechanisms.
  - (2) A law school clinical program must demonstrate it has been in operation for at least two years as of the date on which its application is due. Law school clinical programs may provide a combination of audited financial statements and schedules, budgets, staff lists, class rosters, clinic enrollment records, or functional equivalent.
  - (3) Law school clinical programs may include funds received from parent or affiliate entities and organizations towards the \$20,000 or more in cash funds per year from other sources as required by Business and Professions Code section 6214(b)(1).
- (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 by an independent certified public accountant in lieu of an audited financial

statement may be submitted by an applicant whose gross corporate expenditures, excluding in-kind donated services, were less than the amount specified in the Schedule of Charges and Deadlines. A financial review must include a Statement of Functional Expenses. A Statement of Functional Expenses is a nonprofit financial report that transparently shows how an organization's costs are allocated by function and type. Law school clinical programs may submit audited financial statements for the clinic or law school, provided the latter include a schedule for the clinical program showing its revenues and expenditures.

- (a) All audited financial statements and financial reviews must be provided to the State Bar by the deadline set forth in the Schedule of Charges and Deadlines.
- (b) Extensions to the deadline for providing a financial statement or financial review may be granted under the following conditions:
  - (i) State Bar staff may, upon written request by the applicant, grant an extension up to the application deadline;
  - (ii) The Commission may, upon a showing of extraordinary circumstances by a current Interest on Lawyers' Trust Accounts (IOLTA)/Equal Access Fund (EAF) grant recipient, provide the current recipient with an extension beyond the application deadline;
  - (iii) The Commission may, if no extraordinary circumstances exist, grant a current IOLTA/EAF grant recipient an extension with conditions beyond the application deadline; and
  - (iv) Extensions to the deadline for providing an audited financial statement or financial review granted to current IOLTA/EAF grant recipients may not extend beyond the date upon which grant allocations are determined.
- (c) State Bar staff and the Commission may not accept an audited financial statement or financial review submitted by a non-current IOLTA/EAF grant recipient after the application deadline.
- (d) State Bar staff will review all audited financial statements and financial review findings. For serious findings, such as grant recipients not accurately reflecting expenditures by activity, findings of fraud, or repeat findings from prior audits, staff shall take the following steps:

- (i) send a letter to the grant recipient's governing body requesting the current status of the finding, and if the finding is not resolved, require a corrective action plan; and
  - (ii) notify the Commission.
- (e) The Commission may require additional corrective action and/or oversight of the grantee's fiscal and governance functions, including:
  - (i) requiring an Eligibility Review Conference, or
  - (ii) taking other action(s) the Commission deems appropriate, such as requiring additional monitoring or proceeding with the denial or termination process outlined in Rule 3.691.
- (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) the total corporate expenditures for the fiscal year that concluded during the prior calendar year, which must be itemized on the application. The expenditures reported must match those reported on the audited financial statement or financial review. The following types of expenditures, defined below, shall be excluded from the total corporate expenditures:
  - (a) In-kind/donated goods and services: contributed goods and services recognized and recorded at the fair market value, as verified by audited financial statement.
  - (b) Unrealized loss: a decline in the value of an asset that has not yet been sold, as verified by audited financial statement.
  - (c) Direct assistance funds: restricted funds that require the applicant to distribute the funds to individuals directly. These funds are not available for general use by the applicant.
  - (d) Fiscal sponsorship funds: funds that an applicant provided under a fiscal sponsorship agreement where the applicant is providing funding to a sub-recipient that is an entity unable to receive the funds directly.

- (e) Required Sub-Grants: restricted funds that require the applicant to distribute the funds to sub-grantee(s). These funds are not available for general use by the applicant.

Supporting documentation verifying the restrictions and the amount of funds for direct assistance funds, fiscal sponsorship funds, and/or required sub-grants must be provided. The administration costs related to direct assistance, fiscal sponsorships, and required sub-grants that are for nonqualifying activities must be tracked and reported as nonqualifying expenditures.

- (4) the applicant's qualified expenditures. To determine the qualified expenditures of the applicant, if applying for funding as a qualified legal service project, applicants must report expenditures that were not for providing free civil legal services to indigent persons. If applying as a qualified support center, applicants must report expenditures that were not related to the provision of legal training, legal technical assistance, or advocacy support without charge. These expenses will be deducted from the total corporate expenditures. Applicants must have a reasonable and verifiable method for tracking and reporting expenditures that must be deducted.

Unless otherwise provided in these rules or statute, when calculating their total qualified expenditures for the purpose of determining IOLTA grant awards, qualified legal services projects shall include qualifying expenditures that were made with funds from all sources, including all State Bar grants and funds received from other qualified legal service projects. An organization applying for funding as a qualified legal services project that pays funds to another organization may count such funds as qualified expenditures if the organization receiving the funds spends them on providing free civil legal services to indigent persons in a county for which the applicant is applying for an allocation.

The following expenditures must be reported and deducted from the total corporate expenditures:

- (a) administrative expenditures, including expenditures incurred:
  - (i) related to subleasing and or managing rental properties.
  - (ii) related to fundraising that are for nonqualifying activities.
  - (iii) related to the administration of fiscal sponsorship, and direct assistance funds.
  - (iv) related to the administration of sub grants for nonqualifying activities.

- (v) related to legal settlements or judgments based upon nonqualifying activities or employees who do not perform qualifying work.
  - (vi) for other administrative activities that support nonqualifying work.
- (b) Expenditures related to fee generating activity(ies), including:
- (i) Expenditures incurred providing fee-for-service or sliding scale legal services, excluding a \$20 administrative charged to indigent individuals.
  - (ii) Expenditures incurred providing services on a fee generating cases that do not meet the statutory exception.
  - (iii) Support Center expenditures incurred providing legal training, legal technical assistance, or advocacy support services to qualified legal service projects for a fee or reimbursement.
  - (iv) Qualified legal service project expenditures incurred providing legal training, legal technical assistance, or advocacy support services that are not related to the provision of free civil legal services.
  - (v) Support Center expenditures incurred providing publications or resource material to qualified legal services projects for a fee.
  - (vi) Expenditures incurred for other fee generating activities that support nonqualifying work.
- (c) For qualified legal services projects, expenditures related to nonqualifying program activity(ies), including expenditures incurred:
- (i) providing services to clients who do not meet the indigency standard;
  - (ii) providing criminal legal services;
  - (iii) providing services outside the State of California; and
  - (iv) providing other services that do not meet the civil legal services standard.

- (d) For support centers, expenditures related to nonqualifying program activity(ies), including expenditures incurred:
  - (i) providing direct legal service work that does not meet the statutory exemption; and
  - (ii) providing other services that do not meet the legal training, legal technical assistance, or advocacy support services standard.
  
- (5) all qualified expenditures by county if the applicant is applying for funding as a qualified legal service project. If the applicant serves more than one county, it must explain the basis of the by-county allocation. The allocation must be reasonably related to the geographic distribution of the indigent persons who will benefit from the services. In allocating total expenditures among counties, an applicant must use a method that is reasonably related to the actual expenditure of funds on indigent persons in any given county and explain the basis of the allocation. The allocation methodology and source data used for the allocation must be reviewed and updated by the applicant at least annually.
  - (a) In evaluating the reasonableness of such allocations, the Commission may consider the following factors and any others that aid in making that determination:
    - (i) numbers of clients served who reside in each county;
    - (ii) number of cases handled in each county;
    - (iii) actual or estimated hours of service provided in each county, or provided to clients who reside in each county;
    - (iv) actual expenses of providing service to clients in each county, including both personnel and non-personnel expenses;
    - (v) statistics that establish the geographic distribution by county of persons who will benefit from the services provided;
    - (vi) the forum in which the matter is being pursued, e.g., courts, administrative agency, legislature, etc.;
    - (vii) in the case of a class action, the definition of the class contained in the complaint and proposed or actual class certification orders; and

- (viii) a description of the group of individuals that would benefit from a favorable resolution of the legal matter.
  - (6) 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
  - (7) information about program activities, such as substantive practice areas, extent and complexity of services, a summary of litigation, and populations served.
- (F) Except for audited financial statements and financial reviews, State Bar staff may accept application materials submitted up to one business day after the posted deadline. Except for audited financial statements and financial reviews, the Commission or a committee of its members may accept, accept with conditions, or reject application materials that are submitted beyond one business day after the posted deadline or that are submitted up to one business day after the posted deadline but not accepted by State Bar staff. Factors that the Commission or committee may consider when determining whether to accept a late application include, but are not limited to
- (1) how late after the deadline the submission was received;
  - (2) the completeness of the submission;
  - (3) the reasonableness of the applicant's explanation for the delay;
  - (4) any mitigating factors that the applicant provides to the committee; and
  - (5) the number of late application or reporting submissions made by the applicant in the preceding three years.
- (G) Qualified legal services projects and support centers may apply for competitive discretionary grants if they meet threshold eligibility requirements for those funding opportunities. A scoring rubric will be utilized to aid in the review and evaluation of competitive discretionary grant applications. The scoring rubric should, absent an explanation from the Legal Services Trust Fund Commission, consist of the general selection criteria: Impact, Administration, and Evaluation, as well as other grant-specific criteria. Selection criteria, point allocations, and implementation of the scoring rubric will be at the discretion of the Legal Services Trust Fund Commission.
- (H) The following rules apply to new and returning applicants seeking the additional pro bono allocation under Business and Professions Code section 6216(b)(1)(B). To qualify, an applicant must show (1) that it recruited substantial numbers of pro bono attorneys to provide free legal representation to indigent persons or to qualified legal services projects in California AND (2) that pro bono is the applicant's principal means of

delivering legal services by meeting one of the following requirements:

- (1) Providing objective evidence demonstrating that the number of hours of free legal services provided by recruited pro bono attorneys in the prior calendar year exceeded the number of hours of legal services provided by attorneys employed by the applicant.
  
- (2) Providing a narrative description and explanation of the applicant's program demonstrating its recruitment of substantial numbers of pro bono attorneys to provide free civil legal services to indigent persons or qualified legal services projects in California and that pro bono is its principal means of delivering these legal services.
  - (a) Substantial numbers shall be demonstrated through a description of the following factors:
    - (i) The number of pro bono attorneys recruited;
    - (ii) The number of pro bono attorneys recruited compared to the number of attorneys on staff;
    - (iii) The percentage of attorneys in your local service area that donated services through your project;
    - (iv) The verified value of donated civil legal services in comparison to your expenditures and budget;
    - (v) The number of hours donated by each attorney compared to number of paid attorney hours;
    - (vi) The number of attorneys in your area who have special expertise needed to provide the services your project offers; and
    - (vii) Other considerations that may affect the availability of pro bono attorneys in your service area.
  - (b) Pro bono as principal means of delivering legal services shall be demonstrated through a description of each of the following factors:
    - (i) Pro bono recruitment and retention strategy;

- (ii) Training curriculum;
  - (iii) Type and number of volunteer opportunities available;
  - (iv) Service delivery model that requires volunteers;
  - (v) Supervision and scope of support for volunteers; and
  - (vi) Data demonstrating quantifiable commitment to pro bono as the principal means of delivery, such as percent or number of pro bono cases compared to cases by attorneys on staff, a substantial combined number of total pro bono attorney and non-attorney volunteer hours, or other relevant data points.
- (l) For purposes of determining whether an applicant has demonstrated the recruitment of substantial numbers of pro bono attorneys and pro bono as its principal means of delivering legal services,
- (1) "recruited" means either a newly recruited attorney or returning pro bono attorney who is continuing to engage in providing pro bono services;
  - (2) attorneys can be considered pro bono attorneys even though they work for government agencies, corporations, or in non-legal occupations so long as they are not employees of the applicant;
  - (3) 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;
  - (4) non-attorney volunteers may include paralegals, interpreters, legal assistants, social workers, undergraduate students, law students, intake volunteers, and other volunteers so long as their work is supervised by an attorney and the work of the volunteer contributes to the delivery of free legal services to the indigent;
  - (5) law student hours count toward volunteer non-attorney hours regardless of whether law students receive academic credit, a stipend, or compensation, so long as they are not being paid an equivalent amount and doing equivalent work as a paid employee; and
  - (6) legal fellows are law graduates or licensed attorneys who have temporary and/or timebound employment and are typically compensated by a third party; legal fellow hours count toward staff attorney hours unless legal fellows are current law students and/or participating in the Legal Services Trust Fund Commission Legal Aid Leaders Fellowship grant program.

*Rule 3.680 adopted effective March 6, 2009; amended effective January 25, 2019; amended effective July 1, 2023; amended effective November 16, 2023; amended effective July 18, 2024; amended effective November 21, 2025; amended effective February 27, 2026.*

**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. Grant funds may be used only for allowable costs of the activities for which the Grant was awarded, in the county for which it was awarded (if the Grant is county-specific);
- (B) ensure adequate governance and oversight that complies with applicable laws, regulations, and ordinances, including the Americans with Disabilities Act. This includes maintaining:
  - (1) requisite business, legal, and financial registrations and licenses;
  - (2) fidelity insurance policies;
  - (3) adherence to the organization’s articles of incorporation and bylaws;
  - (4) policies and procedures regarding privacy, including technology and data security;
  - (5) policies and procedures regarding workplace safety;
  - (6) policies and procedures regarding prevention of workplace harassment and discrimination;
  - (7) policies and procedures regarding prevention and mitigation of conflicts of interests; and
  - (8) policies and procedures regarding reporting mechanisms for, and the protection of, whistleblowers;
- (C) ensure service provision and appropriate client protections, including:
  - (1) qualified staff;
  - (2) staff and volunteer supervision;
  - (3) case opening and closing oversight;

- (4) training for staff and volunteers;
  - (5) oversight of work assignments to ensure appropriate workloads;
  - (6) work quality review;
  - (7) case management system and recordkeeping;
  - (8) client eligibility screening;
  - (9) procedures for client grievance and appeals;
  - (10) procedures for providing all legally mandated trainings; and
  - (11) policies and procedures for conflicts of interest, disclosure, and waiver issues;
- (D) have appropriate accounting systems, policies, and procedures to ensure that grant recipients are able to oversee, account for, and support the organization's financial transactions, using generally accepted accounting principles (GAAP). Grant recipients must have qualified accounting personnel or a contractor to properly document, record, account for, and report its financial transactions;
- (E) have a fund accounting system that segregates each Trust Fund grant from other revenue sources and tracks expenditures by individual grant. Grant recipients must have policies and procedures to demonstrate how costs that benefit more than one program or grant are allocated across grants;
- (F) clearly define the authority and responsibility for personnel involved in the financial activities of the grant recipient. Grant recipients must segregate duties so that accounting functions are separated so that no individual can initiate, execute, and record a transaction without a second independent individual being involved in the process;
- (G) maintain controls to ensure payments using grant funds are made only for allowable items. Grant recipients must ensure all financial transactions are reviewed and approved in a timely manner (including electronic transactions);
- (H) have policies and procedures for cash receipts. The grant recipient must maintain a separate cash receipts log of all payments in the form of cash or cash equivalents. This log should be reviewed and compared to the general ledger. Paper checks/money orders must be immediately restrictively endorsed. Bank deposits must be made at least weekly;
- (I) maintain petty cash funds on an imprest basis and recorded in the general ledger. Petty cash must be kept in a secure location. Disbursements from petty cash must be

documented by receipts, and reimbursements to the fund must be made on a regular basis;

- (J) ensure all bank accounts are authorized by the grant recipient's board of directors. Any account not used must be closed and the bank notified in writing not to process any subsequent transactions. Any remaining blank checks for closed accounts must be destroyed;
- (K) reconcile bank statements monthly to the general ledger balance. The reconciliations must be reviewed and approved by a responsible individual;
- (L) maintain payroll records that include payroll data required by federal, state, and local laws. Documentation must be maintained to support individual gross earnings and payment of amounts withheld for federal and state taxes. A personnel file must be established for each employee and should include the following data: Employment contract if applicable, wage or salary authorization, current federal income tax withholding form (W-4), current State income tax withholding form, authorization for all other payroll deductions, and authorization for all wage/salary actions. Grant recipients must ensure that they are appropriately designating employees as exempt or non-exempt and properly classify independent contractors;
- (M) maintain a timekeeping system. The system must be able to identify employee hours worked so that compliance with federal and state laws with respect to overtime and pay rates can be demonstrated. The system must also be able to demonstrate accountability for time worked to support personnel expenditures on project-based grants.
- (N) establish policies and procedures for the grant recipient's property and equipment. The policy and procedures must include capitalization requirements and a procedure for conducting a periodic inventory of individual property items. The grant recipient must maintain property records for items that exceeded the capitalization threshold. The property records to be maintained must include: (1) a description of the item, including model and serial number (if the property has no such number, it must be tagged with an identifying number to ensure the internal records are effective in controlling property); (2) date of acquisition; (3) check number used to pay for item; (4) cost; and (5) useful life;
- (O) receive approval from the Commission to subgrant Trust Fund money. Grant recipients must have policies and procedures consistent with the grant agreement and Trust Fund Requirements. The grant recipient must monitor the activities of the subrecipient to ensure the subgrant is in compliance with the terms of the grant agreement and Trust Fund Requirements. Grant recipients must ensure that subrecipients have policies and procedures consistent with the grant agreement and Trust Fund Requirements;

- (P) prepare and review interim management reports, preferably prepared monthly, but at least quarterly, that compare actual expenditures to the approved budget of the organization and of individual grants. The program director or equivalent staff should review the reasons for any significant variations from the budget, and also compare projected future expenditures against the unexpended portion of the budget;
- (Q) develop a mechanism for accounting for expenditures related to non-qualifying activities, out-of-county or out-of-state spending, and activities that generate attorney's fees or other fee-generating activities;
- (R) annually review the grant recipient's insurance coverage to ensure that all significant business risks have been covered. Insurance coverage should be periodically reviewed with a competent insurance agent;
- (S) maintain records regarding the eligibility of the client;
- (T) 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;
  - (2) and information to enhance the delivery system of legal services;
- (U) cooperate regarding any scheduled monitoring visit and implement corrective action plans developed to meet compliance requirements;
- (V) engage with staff regarding recommendations related to quality control standards; and
- (W) submit timely financial reports and any other information reasonably required by the Commission. Grant recipients must maintain documentation of each of these requirements for at least five years following the end of the grant term. Grant recipients must timely provide documentation upon Commission request which may be made at any time. The Commission may require additional information as needed that would be probative of the applicant's ability to provide civil legal services to indigent Californians in compliance with these Rules and applicable law.

*Rule 3.681 adopted effective March 6, 2009; amended effective November 21, 2025.*

### **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.<sup>11</sup>

*Rule 3.682 adopted effective March 6, 2009.*

### **Rule 3.683 Determination of IOLTA Distribution Amounts**

- (A) The Legal Services Trust Fund Commission will annually recommend to the Board of Trustees the amount of IOLTA funds to be distributed and the amount to be held in reserve the next year.<sup>12</sup> The Commission will set the current year's projected IOLTA revenue total as the target distribution amount after deducting State Bar administrative costs and any amount set aside for the reserve. Instead of setting aside an amount for reserve, the Commission may increase the distribution with contributions from the reserve.
- (B) The reserve will be established as a restricted fund account that may be accessed to increase planned IOLTA grant distributions or to ensure sufficient funds for the State Bar to fulfill current-year IOLTA grant disbursements.
  - (1) A minimum of 5 percent of current year revenue should be added to the reserve each year, subject to the maximum reserve balance set forth below, unless revenue is projected to fall, in which case the Commission may direct a smaller percentage of revenue, or none, to the reserve for the following year.
    - (a) The Commission may increase the amount of revenue directed to the reserve, unless it would exceed the maximum allowable balance.
  - (2) The maximum reserve balance will be set at \$25 million.
    - (a) The Commission may periodically choose to increase the maximum allowable reserve balance to account for inflation, as reflected by the overall percentage increase in the Bureau of Labor Statistics' Consumer Price Index.
    - (b) If the reserve has reached the maximum allowable balance, all revenue remaining after administrative costs will be distributed as grants. However, if the Commission determines that the grant distribution will be at least double the distribution of the prior year, and the size of the distribution cannot be effectively or efficiently used by grant recipients within the grant period, the Commission may increase the reserve by an amount not to exceed a total of \$40 million.
- (C) The Commission will determine whether to access funds held in reserve as part of the planned IOLTA grant distribution. Factors for consideration include, but are not limited to,

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<sup>11</sup> Business & Professions Code § 6217(d).

<sup>12</sup> Business & Professions Code § 6210.5(e).

- (1) Catastrophic events or other emergency circumstances resulting in significantly decreased IOLTA revenue and/or legal aid funding generally;
  - (2) Catastrophic events or other emergency circumstances resulting in significantly increased need for legal aid services; or
  - (3) IOLTA revenue decreases of more than 15 percent.
- (D) If IOLTA revenue yields insufficient funds for the State Bar to disburse quarterly IOLTA grant payments, the Commission will authorize use of the reserve to fulfill existing grant obligations.
- (E) IOLTA funds shall be distributed on an annual basis. However, the Commission may authorize yearly IOLTA grant distributions to be spent over a period of multiple years.

*Rule 3.683 adopted effective November 16, 2023.*

**Rule 3.684 Grant Award Reductions or Grant Terminations**

- (A) “Funding reduction” is when the grant award amount is reduced.
- (B) “Grant termination” is when the grant agreement is terminated.
- (C) Grant recipients must return to the State Bar any unspent funds or relinquished funds (as defined in rule 3.685) when a grant agreement is terminated or is amended and the amendment requires return of funds.
- (D) Grant recipients must request a funding reduction or grant termination if they cease operations, are unable to perform the grant activities fully, and/or are no longer providing services in a particular county if the grant terms require services to be performed in a particular county.
- (E) State Bar staff may reduce a formula grant if the grant recipient or staff determines that the organization’s reported qualified expenditures used to calculate the formula amount were incorrect. Staff may recalculate the formula award amount based upon the organization’s corrected qualified expenditures.
- (F) The Commission has authority to reduce grant awards or terminate grant agreements. In determining whether a reduction of a grant award or a termination of a grant agreement is warranted, the Commission shall consider whether there is evidence of the following: lack of substantial compliance with the terms and conditions of the grant,

fraud, organizational mismanagement, significant underspending, accounting irregularities, misuse of funds, or failure to meet service deliverables.

- (G) Staff may approve the following funding reductions without Commission approval; all reductions shall be reported to the Commission:
  - (1) Grant recipient-initiated reductions:
    - (a) Termination of grant agreements due to cessation of operations
    - (b) Grant recipients no longer providing services in a particular county if the grant terms require services to be performed in a particular county
    - (c) Grant recipients requesting less than the calculated formula amount
    - (d) Grant recipients requesting a reduction that is equal to or less than 25 percent of their competitive-based grant award
  - (2) Staff-initiated grant reductions based upon corrected qualified expenditures.
- (H) The following are subject to review and approval by the Commission:
  - (1) Grant recipients requesting a reduction that is greater than 25 percent of their competitive-based grant award
  - (2) Any grantee-initiated reductions not approved by staff
- (I) Following a staff-initiated, grant recipient-initiated, or Commission-initiated funding reduction or grant termination the Commission has the discretion to find that the reduction or termination will impact future competitive grant awards; to add additional terms and conditions to current or future grant agreements; to require additional monitoring visits; to require eligibility review conferences; to delay future grant distributions until corrective action is taken; or to undertake other actions the Commission deems appropriate in furtherance of its oversight responsibilities.
- (J) All staff-initiated and Commission-initiated reductions are subject to reconsideration pursuant to the procedures set forth in Rule 3.691.

*Rule 3.684 adopted effective November 21, 2025.*

### **Rule 3.685 Unspent and Relinquished Grant Funds**

- (A) “Unspent funds” are grant funds that were not spent by the end of the grant term.
- (B) “Relinquished funds” are grant funds that have been returned to the State Bar during the term of the grant. Relinquished funds may be initiated either by the grant recipient (e.g., a grant recipient is unable to perform a grant fully) or by the Commission, such as a reclamation of funds based upon Commission oversight actions (e.g., noncompliance with grant terms, underperformance, etc.).
- (C) “Returned funds” are unspent or relinquished funds that have been returned to the State Bar.
- (D) “Reallocation” or “reallocate” refers to the process of awarding relinquished funds to other grantee(s) during a grant period.
- (E) “Redistribution” or “redistribute” refers to the process of adding unspent funds to a subsequent grant year for distribution.
- (F) As permissible by the grant’s authorizing statute or other controlling authority, the Commission will redistribute or reallocate returned funds using the following methods:
  - (1) The Commission will redistribute returned funds in subsequent grant periods in compliance with the grant’s authorizing statute or other controlling authority, to the extent permitted by the authorizing statute or controlling authority, unless the Commission determines that returned funds should be reallocated to other grant recipients in the current grant period, considering factors including the amount of the returned funds, other grant recipients’ capacity to accept and use reallocated funds, and the time remaining in the grant period.
  - (2) If returned funds are not redistributed, they will be reallocated if practicable. Reallocation will be limited to grant recipients currently receiving funds pursuant to the grant from which the returned funds originated. Grant recipients must formally opt-in to receive reallocated funds through a process determined by State Bar staff.

Formula-based grant reallocation amounts will be based upon the reallocation-receiving grant recipient’s pro rata share of the original formula as calculated by State Bar staff, unless a grant recipient requests a smaller reallocation amount. Competitive-based grant reallocation amounts are subject to the Commission’s discretion. For all grants, the Commission may establish additional eligibility criteria for receiving the reallocated funds. Criteria may include meeting spending thresholds or timely resolution of State Bar monitoring findings related to the grant.

To receive reallocated grant funds, a grant recipient must submit to the State Bar a revised budget and execute an amendment to the original grant agreement which shall govern the reallocated grant funds, pursuant to deadlines set by State Bar staff. Staff will determine the timing for disbursement of the reallocated amounts to the eligible grant recipients.

- (G) Returned funds that are not reallocated or redistributed will be returned to the funding source as required in the grant's enabling statute or the funding contract.

*Rule 3.685 adopted effective November 21, 2025.*

### **Rule 3.686 Carryovers, Rollovers, and Budget Modifications**

- (A) A "carryover" is the use of grant funds after the grant period for which they were awarded.
- (B) A "rollover" is the use of grant funds after the grant year for which they were budgeted, but during the grant period for which they were awarded.
- (C) A "budget deviation" is the use of grant funds in a different budget line-item than that proposed in the approved budget. Budget deviations are to be calculated by summing overspending in each budget line-item compared to the approved budget.
- (D) Subject to grant requirements, grantees shall not carry over more than 10 percent of grant funds beyond the grant period for which they were awarded without obtaining consent from State Bar staff or the Commission.
  - (1) State Bar staff may approve carryover requests of up to and including 25 percent of the grant award amount. The Commission may approve, in part or in full, carryover requests in excess of 25 percent of the grant award amount. The Commission may approve carryover requests of 50 percent or more of the grant award amount only in extraordinary circumstances. Factors that State Bar staff and the Commission shall consider when determining whether to approve a carryover request include:
    - (a) the grantee's explanation for the underspending and need for a carryover;
    - (b) the size of the carryover request and the grantee's ability to spend down remaining grant funds;
    - (c) the grantee's history of carryover requests;

- (d) the grantee's plan to avoid carryover requests in the future;
  - (e) the requirements and purpose of the grant at issue; and
  - (f) other factors determined relevant by the Commission.
- (2) Carryover funds, including those up to 10 percent of the grant amount, must be spent within the carryover spend-down period, as approved by the Commission. Any grant funds still unspent at the end of the carryover spend-down period must be returned to the State Bar.
- (3) If a carryover request is denied, the grant recipient shall return funds not spent within the grant period for which they were awarded (minus 10 percent of the grant award amount, unless carryovers are not allowed for the grant type) within 30 days of notice of denial, or within 60 days of the end of the grant period, whichever is later.
- (4) Grant recipients must submit carryover requests in compliance with annual deadlines, or grant-specific deadlines when the grant period is not a calendar year, as set by State Bar staff.
- (5) Failure to comply with the requirements in this Rule may result in a breach of contract. If a grant recipient fails to make a timely carryover request in accordance with this Rule, the Commission may require additional corrective action and/or oversight of the grantee's fiscal and governance functions, including, but not limited to:
- (a) sending a letter to the organizations' governing body to notify them of the failure to comply with requirements;
  - (b) requiring a corrective action plan;
  - (c) requiring additional monitoring;
  - (d) delaying grant payments pursuant to Business and Professions Code section 6224 and any regulations thereunder; or
  - (e) other action the Commission deems appropriate.

- (6) If a grantee fails to request a carryover and is found to have spent funds beyond the grant period without approval, the Commission may, at its discretion, require the grantee to return improperly carried-over funds within 30 days of notification.
  - (7) Grantees shall report to State Bar staff, through the grant closeout process, any carryovers of up to 10 percent of the grant amount within 60 days of the end of the grant period.
- (E) Subject to grant requirements, grant recipients shall not roll over more than 10 percent of yearly grant funds, in a multi-year grant, beyond the grant year for which they were budgeted without obtaining consent from State Bar staff or the Commission.
- (1) State Bar staff may approve rollover requests of up to 25 percent of the yearly grant award amount. The Commission may approve rollover requests in excess of 25 percent of the yearly grant award amount. Factors that State Bar staff and the Commission shall consider when determining whether to approve a rollover request include:
    - (a) the grantee's explanation for the underspending and need for a rollover;
    - (b) the size of the rollover request and the grantee's ability to spend down remaining grant funds;
    - (c) the grantee's history of rollover requests;
    - (d) the grantee's plan to avoid rollover requests in the future;
    - (e) the requirements and purpose of the grant at issue; and
    - (f) other factors determined relevant by the Commission.
  - (2) If a rollover request is denied, the grant recipient may, at the Commission's discretion, be required to return funds not spent within the grant year for which they were awarded (minus 10 percent of the yearly grant amount) within 30 days of notice of denial.
  - (3) Grant recipients must submit rollover requests in compliance with annual deadlines, or grant-specific deadlines when the grant period is not a calendar year, set by State Bar staff.
  - (4) Failure to comply with the requirements in this Rule may result in a breach of contract. If a grant recipient fails to make a timely rollover request in accordance

with this Rule, the Commission may require additional corrective action and/or oversight of the grantee's fiscal and governance functions, including:

- (a) sending a letter to the organizations' governing body to notify them of the failure to comply with requirements;
  - (b) requiring a corrective action plan;
  - (c) requiring additional monitoring;
  - (d) delay grant payments pursuant to Business and Professions Code section 6224 and any regulations thereunder; or
  - (e) other action the Commission deems appropriate.
- (5) If a grantee fails to request a rollover and is found to have spent funds beyond the budgeted grant year without approval, the Commission may, at its discretion, require the grantee return those funds (minus 10 percent of the yearly grant amount, unless rollovers are not allowed for the specific grant type) within 30 days of notification.
- (F) Grant recipients shall not deviate from an approved budget by more than 10 percent of grant funds without obtaining consent from State Bar staff, a committee of the Commission, or the Commission.
- (1) A budget modification request must be made to modify the approved budget when:
    - (a) Anticipated or actual budget deviations total to more than 10 percent of the total grant award amount, or
    - (b) Any budget deviation that would result in a budget being out of compliance with another State Bar or Legal Services Trust Fund fiscal guideline or requirement related to grant budgeting and use of funds.
  - (2) Grant recipients must submit budget modification requests in compliance with deadlines set by State Bar staff.
  - (3) State Bar staff may approve budget modification requests of up to 25 percent of the grant award amount. The Commission, or a committee of its members, may approve budget modification requests in excess of 25 percent of the grant award amount. Factors that State Bar staff, committees, and the Commission shall consider when determining whether to approve a budget modification request include:

- (a) the grantee's explanation for the change in spending and need for a budget modification;
  - (b) the size of the budget modification request and the grantee's ability to spend the grant funds in accordance with the requested modification;
  - (c) the impact on proposed grant services and deliverables;
  - (d) the requirements and purpose of the grant at issue; and
  - (e) other factors determined relevant by the committee or Commission.
- (4) A budget modification request to move funds from salaries to contract services to pay for contract legal staff will be presumed to be approved. Notwithstanding subsection (F)(3) of this rule, State Bar staff may approve budget modification requests described in this subdivision regardless of size. Such budget modification requests also do not require review of personnel/non-personnel spending ratios.
- (5) If a budget modification request is approved, the approved grant budget is to be modified in accordance with the request.
- (6) If a budget modification request is denied, the grant recipient may, at the committee or Commission's discretion, be required to return funds not spent in accordance with the approved budget within 60 days of the end of the grant period.
- (7) Failure to comply with the requirements in this Rule may result in a breach of contract. If a grant recipient fails to make a timely budget modification request in accordance with this Rule, the committee or Commission may require additional corrective action and/or oversight of the grantee's fiscal and governance functions, including:
- (a) sending a letter to the organizations' governing body to notify them of the failure to comply with requirements;
  - (b) requiring a corrective action plan;
  - (c) requiring additional monitoring;
  - (d) delay grant payments pursuant to Business and Professions Code section 6224 and any regulations thereunder; or

- (e) other action the committee or Commission deems appropriate.
- (8) If a grantee fails to request a budget modification and is found to have spent funds not in accordance with the approved budget, the committee or Commission may, at its discretion, require the grantee to return those funds (minus 10 percent of the grant amount, unless the deviation would result in a budget being out of compliance with another State Bar or Legal Services Trust Fund fiscal guideline or requirement related to grant budgeting and use of funds, in which case the committee or Commission may require return of all funds spent not in accordance with the approved budget) within 30 days of notification.

*Rule 3.686 adopted effective November 21, 2025.*

#### **Article 4. Requests for review and complaint process**

##### **Rule 3.690 Receipt of document**

For purposes of this article, receipt of a document transmitted by staff or the Commission is deemed to be the earlier of either five days after the date of mailing when sent by mail or the actual time of receipt when staff or the Commission delivers a document physically by courier or otherwise. Staff or the Commission may transmit a document electronically with the recipient's consent. When transmitted electronically, receipt of a document is deemed to be two days after the time indicated on the sender's electronic time stamp.

*Rule 3.690 adopted effective March 6, 2009; amended effective July 1, 2023.*

##### **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.<sup>13</sup> 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.
  - (1) The request must be provided to the Commission in writing within 30 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 90 days of receipt of the request. The applicant or recipient is entitled to written notice of the date, time and place of

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<sup>13</sup> Business & Professions Code § 6224.

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 60 days of the conference.
- (C) Within 30 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. The complaint may be submitted by US Mail or by electronic mail to the address for receipt of such complaints posted on the State Bar's website. At the request of the complainant, the complainant's identity shall be kept confidential.
- (B) Staff must provide a copy of a formal written complaint to the grant recipient whom it concerns within ten days. Staff must attempt to resolve the complaint within 90 days of receipt of the complaint. If the complainant or grant recipient objects to staff's proposed resolution, staff must provide the complainant, grant recipient, and an advisory body comprised of two members of the Commission, with a written report of its efforts to resolve the complaint and recommendation of what action, if any, is appropriate. Staff's written report must be submitted within 90 days of staff's receipt of the complaint. The co-chairs of the Commission will designate the members of the advisory body.
- (C) Within 30 days of receipt of the staff report, the complainant and grant recipient may each provide the advisory body with a written response. Upon a complainant's request, staff may assist in preparing a written response based on the complainant's oral statements to staff.
- (D) The advisory body appointed by the co-chairs of the Commission must consider the staff report and any response. The advisory body may then recommend dismissal of the

complaint based on the information provided or schedule an informal conference to determine whether the complaint should be dismissed or whether action should be taken. The recommendation to dismiss the complaint should issue, or the informal conference should take place, within 60 days of submission of the staff report. The complainant and grant recipient shall be given written notice of a recommendation to dismiss, or the date, time, and place of the informal 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 advisory body must issue a written recommendation that the Executive Committee dismiss the complaint or require corrective action. In addition, the advisory body may recommend that the Commission terminate or consider terminating, in whole or in part, existing funding or renewal of funding pursuant to Rule 3.691. The advisory body may also offer recommendations for general improvements to the complaint process as part of its report. The complainant and recipient shall be given written notice of the recommendation within 30 days of the informal conference.
- (F) The recommendation must be reviewed and acted upon by the Executive Committee or Commission at its next scheduled meeting that occurs more than ten days after the issuance of the advisory body's recommendation.
- (G) If the Executive Committee decides to dismiss the complaint or require corrective action, the decision is final. If the Commission considers the complaint under Rule 3.691, the provisions of that rule control.
- (H) Complainant or grant recipient may request reasonable extensions of any of the deadlines set forth in this rule for good cause. Staff, the advisory body, the Executive Committee, and the Commission may grant reasonable extensions of the deadlines set forth in this rule that are applicable to their respective obligations or to proceedings before them upon a finding of good cause.

*Rule 3.692 adopted effective March 6, 2009; amended effective July 1, 2023*