



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 4.2 SEPTEMBER 2024 BOARD OF TRUSTEES**

**DATE:** September 19, 2024

**TO:** Members, Board of Trustees

**FROM:** Angela O'Hara, Senior Program Analyst, Office of Access & Inclusion

**SUBJECT:** Approval of Recommendation for Revised Effective Date of Pro Bono Allocation Rule 3.680(H)(I)

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### **EXECUTIVE SUMMARY**

On July 18, 2024, the Board of Trustees (BOT) approved proposed State Bar Rules 3.680(H)(I) related to determining eligibility for a pro bono allocation for legal aid organizations applying for Interest on Lawyer Trust Account (IOLTA) grants. The rules seek to simplify and add flexibility to the pro bono allocation eligibility process for qualified legal service providers whose principal means of delivering legal services is through pro bono attorneys providing free legal representation to indigent persons. While the rules were set to go into effect January 1, 2025, in the interest of expanding the availability of pro bono legal services to a greater number of low-income Californians as soon as possible, the Legal Services Trust Fund Commission (LSTFC) recommends that the BOT amend the rules' effective date to July 18, 2024, the date the BOT approved the rules, and approve this change at its September 19–20, 2024, meeting. The Office of General Counsel has reviewed this recommendation and agrees that the proposed change does not conflict with any statutory, fiduciary, or legal obligation of the State Bar.

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### **RECOMMENDED ACTION**

It is recommended that the BOT amend the effective date of State Bar Rules 3.680(H)(I) regarding determining eligibility for a pro bono allocation for legal aid organizations applying for Interest on Lawyer Trust Account (IOLTA) grants from January 1, 2025, to July 18, 2024, and approve this change at its September 19–20, 2024, meeting.

### **DISCUSSION**

On July 18, 2024, the Board of Trustees (BOT) approved proposed State Bar Rules 3.680(H)(I) related to determining eligibility for a pro bono allocation for legal aid organizations applying

for Interest on Lawyer Trust Account (IOLTA) grants. The pro bono allocation is a 10 percent set-aside of IOLTA grant funds distributed to organizations that recruit “substantial numbers of attorneys in private practice to provide free legal representation to indigent persons or to qualified legal services projects” as their “principal means of delivering services.” (Bus. & Prof. Code, § 6214(b)(3)(A) and § 6216(b)(1)(B).

Approved State Bar Rules 3.680(H)(I) simplify and codify the pro bono allocation eligibility process and clarify related definitions. The new rules allow for greater flexibility for a QLSP to demonstrate that pro bono is its principal means of service delivery.

The BOT approved the new rules, and they were set to go into effect January 1, 2025. However, the Legal Services Trust Fund Commission (LSTFC) has since reviewed the 2025 IOLTA applications and found two programs that would meet the requirements for the pro bono allocation under the proposed rules, but are excluded from the additional allocation under the current eligibility guidelines. To expand the availability of pro bono legal services to a greater number of low-income Californians as soon as possible, the LSTFC recommends the BOT amend the new rules’ effective date to July 18, 2024, the date the BOT approved the rules, and approve this change at its September 19–20, 2024, meeting.

## **PREVIOUS ACTION**

[Approve Recommendation for Revised Effective Date of Pro Bono Allocation Rule](#) (LSTFC, August 9, 2024)

[Approve Proposed State Bar Rules 3.680\(H\)\(I\) \(Eligibility for Pro Bono Allocation as Part of Legal Services Trust Fund Program\): Return from Public Comment and Request for Approval](#) (BOT, July 18-19, 2024)

[Approve Proposed Rules Regarding Pro Bono Allocation Following Public Comment Period](#) (LSTFC, June 21, 2024)

## **FISCAL/PERSONNEL IMPACT**

None

## **AMENDMENTS TO RULES**

Title 3, Division 5, Chapter 2, Rules 3.680(H)(I)

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

None – core business operations

## **RESOLUTIONS**

**Should the Board of Trustees concur, it is:**

**RESOLVED**, that the Board of Trustees approves amending the effective date of State Bar Rules relating to the Legal Services Trust Fund Program—Rule 3.680(H)(I)—provided as Attachment A, from January 1, 2025, to July 18, 2024.

## **ATTACHMENT LIST**

- A.** Approved State Bar Rules 3.680(H)(I) Regarding the Legal Services Trust Fund Program