

## **POLICY STATEMENT**

### **GUIDELINES FOR GRANTS TO LAW SCHOOLS FOR EXTERNAL EDUCATIONAL LEGAL CLINICAL PROGRAMS AND INTERNSHIPS**

*Approved by the IOLTA Board Tuesday March 23, 2010*

#### **Policy Statement**

Non-profit legal services organizations receiving IOLTA funds for the uses described in Pa RPC 1.15(s)(1) must satisfy the Qualified Recipient Grant Eligibility Criteria, as implemented by policies of the IOLTA Board. These grants are in all instances subject to the general grant administrative and financial provisions, and the grant use provisions as established from time to time by the IOLTA Board.

Law schools receiving grants of IOLTA funds pursuant to Pa RPC 1.15(s)(2) are also subject to the same general grant administrative and financial provisions, and the same grant use provisions. Additionally, the grants are awarded to the law schools based upon the funding priorities of the IOLTA Board, as those priorities are addressed in the annual law school grant application to the IOLTA Board. When a law school affiliates with another entity for the IOLTA funded educational purpose of providing clinical and internship activities for its law students outside the law school's direct administration (whether or not the entity meets the Qualified Recipient Grant Eligibility Criteria required of a direct IOLTA non profit grant recipient) it shall: (i) contractually obligate the other entity to comply with the grant use provisions, the grant priorities identified in the annual law school grant application to the IOLTA Board, (ii) establish procedures to monitor compliance by the other entity with the applicable provisions and grant priorities, and (iii) report to the IOLTA Board with respect to its contracts and compliance monitoring of such entities.

#### **Background**

The Interest On Lawyers Trust Account ("IOLTA") Program was initially instituted in Pennsylvania by the enactment of the Interest On Lawyers Trust Accounts Act, Act No. 188-59 (the "LTAB Act"). The LTAB Act provided that funds generated by the IOLTA program could be used only for very specific purposes: (1) delivery of legal assistance to "eligible clients," (2) delivery of legal assistance to individuals who are elderly, disabled, homeless, seasonal farm workers, or victims of crime or abuse, or (3) administration and development of the IOLTA Program.

Eligible clients were defined in the LTAB Act to be persons who were unable to afford the cost of private legal assistance and who satisfied the financial eligibility standards established in the federally funded statewide legal services system.

In addition, the LTAB Act prohibited the use of funds generated from the IOLTA Program for a number of purposes, including: (1) assistance with respect to fee generating cases (as defined by the LTAB Board), (2) provision of legal assistance with respect to the defense of criminal prosecutions, (3) provision of legal assistance in civil actions related to certain criminal charges, (4) political or lobbying activities, (5) capital expenditures, (6) lobbying (with certain exceptions) and (7) certain activities with respect to abortion.

Under the LTAB Act, grants were made to "qualified recipients." Qualified recipients were not for profit entities incorporated in Pennsylvania, tax exempt under §501(c)(3) of the Internal Revenue Code, and which operated within the Commonwealth "for the primary purpose of providing civil legal services without charge." Further, a qualified recipient was required (i) to provide civil legal services to "eligible clients" and victims of abuse under contract with the Department of Public Welfare, or (ii) provide direct specialized legal services primarily to individuals who are elderly, disabled or homeless, or seasonal farm workers, or victims of crimes or abuse.

By Order dated July 17, 1996, the Supreme Court of Pennsylvania adopted an Order (the "Order") instituting a mandatory IOLTA Program. The Supreme Court amended Rule 1.15 of the Pennsylvania Rule of Professional Conduct (the "Pa RPC"), directing that interest on IOLTA funds be used only for the following purposes:

- (1) delivery of civil legal assistance to the poor and disadvantaged in Pennsylvania by non-profit corporations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
- (2) educational legal clinical programs and internships administered by law schools located in Pennsylvania;
- (3) administration and development of the IOLTA program in Pennsylvania; and
- (4) the administration of justice in Pennsylvania.

These purposes are currently found at Pa RPC 1.15(s). Additionally, the Order specifically directed the IOLTA Board "to the extent not inconsistent with the provisions of this Order," to administer the IOLTA program "to the extent practicable" as a continuation of the Program administered pursuant to the LTAB Act.

To implement the Order of the court, the IOLTA Board has adopted general grant administrative and financial provisions, and grant use provisions. The general grant administrative and financial provisions, and the grant use provisions, are generally applicable to any organization which receives IOLTA funds in accordance with Pa RPC 1.15(s).

Finally, in September 2007, the IOLTA Board adopted a Policy Statement regarding the type of non profit legal services organizations to which IOLTA funds would be granted pursuant to the provisions of Rule 1.15(s)(1) (referred to here as Qualified Recipient Grant Eligibility Criteria). These requirements track in large part the requirements that existed under the LTAB Act in order for an entity to be considered a "qualified recipient" under that Act.