

**The Interest On Lawyer Account Fund
Of the State of New York**

ANNUAL REPORT 2014

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I. THE IOLA FUND

The Fund supports non-profit organizations in New York State that provide legal assistance to low-income people and improve the administration of justice for groups underserved by legal services.

It was established as a public body by the New York State Legislature in 1983, with the support of the New York State Bar Association. It is governed by an independent Board of Trustees appointed by the Governor, legislative leaders and the Chief Judge of the State of New York.

The Fund's revenue is derived from interest on attorneys' IOLA escrow accounts that hold pools of client money that individually are too small or reasonably expected to be held too briefly to generate sufficient income to justify the expense of administering a segregated account for the client's benefit. Approximately 45,000 IOLA accounts are open at 170 banking institutions in the state.

Since it was established in the 1980s, through the recent grants issued in 2013 to fund activity during the two-year period ending March 31, 2015, the Fund has awarded over \$377 million. Over that period the amount awarded each year has fluctuated, often considerably, because the Fund's revenue is largely driven by prevailing bank interest rates.

II. GRANTEE ACCOMPLISHMENTS (2013-2014)

All performance data collected in this report describes the work of IOLA's grantees over the period of April 1, 2013 to March 31, 2014.

Grantees provided direct legal assistance in 296,621 cases, benefiting over 612,000 individuals, including at least 5,600 veterans, 29,000 victims of domestic violence and 40,000 undocumented immigrants.

More than 3.1 million people obtained community legal education and 2.4 million people received assistance that enabled them to handle legal matters on their own.

Collectively, IOLA grantees have a total of 1,346 attorneys and 532 paralegals and 561 other staff, plus the benefit of 219,122 hours of work from 2,098 law students. Working through grantees' programs, more than 13,500 *pro bono* attorneys from the private bar and corporate legal departments volunteered 529,845 hours of their time and closed 22,061 cases. Assuming a billable rate of \$250 per hour, the time that *pro bono* attorneys alone donated was worth over \$132.4 million dollars.

Including back awards, the dollar benefits achieved for clients totaled more than \$680 million in SSI benefits, other public benefits, unemployment compensation, child support, spousal maintenance and affirmative judgments. The savings that clients achieved as a result of assistance from IOLA grantees, such as reductions in rent, medical bills, mortgage principle, debt collection fees, taxes due, etc. totaled over \$70 million.

Major Categories of Direct Assistance Provided To Clients in 2013-2014

In 2013-2014, IOLA's grantees had a total staff of 1,346 attorneys, 532 paralegals and 561 other staff who collectively closed 296,621 cases that benefited 612,125 people.

Housing: 184,583 People Benefited

Legal problems include unlawful eviction, denial of access to public or government-subsidized housing, and illegal mortgage foreclosure.



Individual Rights, Employment & Health: 134,351 People Benefited

Legal problems include access to services and accommodations, job discrimination, employment benefits and access to health care.



Family and Juvenile: 85,691 People

Legal problems include domestic violence protection, divorce, child custody, child abuse and neglect and guardianship.



Income Maintenance: 83,222 People

Legal problems include SSD (disability), SSI (Supplemental Security), unemployment or public benefits.



Education: 36,146 People Benefited

Legal problems include suspension or expulsion from school and denial of access to educational opportunities.



Consumer/Finance: 34,939 People Benefited

Legal problems include illegal taking of property, wage garnishment, denial of credit and fraudulent consumer practices.



Other: 53,193 People Benefited

Legal problems include other miscellaneous matters.



Dollar Benefits Won For Clients in 2013-2014 -- \$680.6 MILLION

Social Security, SSI Benefits:	\$160,518,138
Medicaid Benefits	\$237,100,000
Other Federal Benefits:	\$151,611,055
Unemployment Compensation:	\$10,729,865
Family Law - Child Support:	\$14,102,681
Family Law - Maintenance/Spousal Support:	\$1,447,102
Family Law - Equitable Distribution of Assets:	\$4,566,405
Affirmative Judgments:	\$23,580,527
Other Benefits:	\$77,032,799
Total Benefits:	\$680,688,572

Note: Total includes back awards and three year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (food stamps, family maintenance, distribution of assets, affirmative judgments and other benefits), 36 months (other federal benefits and child support) or 60 months (Social Security and SSI)

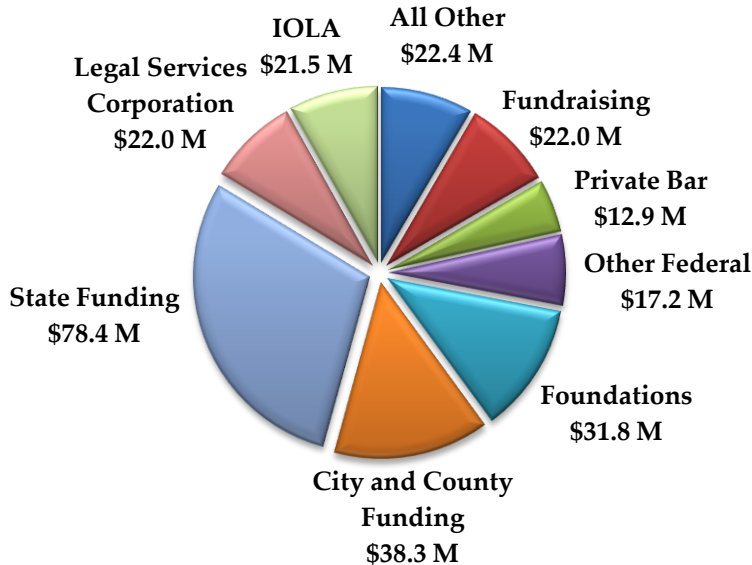
Dollar Savings Won For Clients in 2013-2014 -- \$70.1 MILLION

Bankruptcy & Consumer:	\$31,904,279
Housing & Foreclosure Prevention:	\$23,154,234
Medicaid, Medicare & Health Savings:	\$1,457,746
Food Stamps & Other Income Maintenance:	\$2,262,020
Tuition & Educational Services Savings:	\$ 9,293,243
Fee Waivers, Family Law Matters & Other:	\$2,046,332
Total Savings:	\$70,117,854

Note: Total includes lump sum awards and settlements avoided. In addition, this total includes monthly savings achieved in bankruptcy matters, lease abatements, mortgage rate reductions, and food stamps, based on 12 month duration.

Funding Received By Grantees from All Sources

In 2013-2014, IOLA's grantees obtained over \$266.6 million in support – including grants received from the Fund.



Representative Cases

While the IOLA Fund places great emphasis on gathering data from its grant recipients, the dollars earned as a result of clients' cases and the number of hours worked upon a case by an attorney can never capture the full impact of the vital work performed by civil legal services attorneys. Here are some examples of the huge impact on the lives of clients served by the organizations IOLA supports:

Housing

Ms. A. is a single parent of a 7 year old. She is also a police officer who was injured on the job and now disabled. She fell behind on her mortgage due to a decrease in income during the time she was missing work, but had no luck trying to work with the servicer directly to modify her loan. **Empire Justice Center** accepted her as a client and began representing her in the settlement conference process and was able to convince the judge that the mortgage servicer was not acting in good faith mandated by New York State law. As a result, the judge stopped the accrual of fees and Ms. A. was offered a loan modification that reduced her monthly payment by over \$200 a month and her interest rate from 6.5% to 4.875%. Ms. A. is convinced that she would have lost her home were it not for Empire Justice Center.

Domestic Violence

In 2009, Ms. V sought assistance from the Family/Domestic Violence Practice at **The Legal Aid Society** for help with her divorce from her abusive husband. Her attorney determined that Ms. V and her daughter, E, were eligible for U visas as victims of a crime. The U.S. Citizenship and Immigration Services approved E's visa only until she turned 21, 18 months shy of the three continuous years she needed to be eligible for lawful permanent residence. **The Legal Aid Society** successfully appealed on E's behalf and is now helping her apply for lawful permanent residence. Although as a U visa holder E is eligible for Medicaid, her Medicaid applications had repeatedly been denied. **The Legal Aid Society's** Health Law Unit (HLU) successfully represented E in an administrative hearing for approval of Medicaid and then referred E to its Government Benefits Practice which counseled her about applying for public assistance. Through these efforts, Ms. V was able to successfully end her abusive marriage, and she and her daughter are now eligible for a number of services so they can stay in the United States and receive the benefits they deserve.

Seniors

Ms. T recently turned 65 and was overwhelmed by the Medicare prescription drug options available. She attended a Medicare Part D enrollment clinic sponsored by **Lenox Hill Neighborhood House** and met with a trained, volunteer lawyer who assisted her in selecting the most appropriate Part D plan for her needs and also identified that Ms. T was eligible for the prescription drug subsidy program (Extra Help), a Medicare Savings Program and for SNAP benefits. **Lenox Hill Neighborhood House** helped Ms. T apply for all three of these benefit programs; she now receives \$189 per month in SNAP benefits; does not have to pay the \$105 monthly Medicare premium; pays no prescription drug premium and her prescriptions do not cost her more than \$6/month! These savings help Ms. T stretch her limited budget so that she can continue to live independently.

Children

Mikey is a six year old child diagnosed with cerebral palsy. Muscle weakness affects his breathing and his airways often become blocked, requiring immediate clearing. His health care team sought Medicaid funding for a specialty bed that would allow his caregiver to monitor his breathing and to provide medical care quickly if he was having difficulty breathing. Medicaid denied the request, claiming less costly alternatives would meet his needs, even after the child's doctor stated that less costly alternatives could result in injury or death. **Neighborhood Legal Services** represented the child at an administrative hearing and won. This benefitted not only the child and his parents, but the Medicaid program as well. This is a child that could be institutionalized, at tremendous cost to the Medicaid program, if the parents are not provided the means to care for this child at home.

Disabled

Alice, an elderly wheelchair-bound resident of subsidized housing, could not leave through the front door of her apartment because no ramp was available. The landlord told her to exit through the rear sliding glass door. Once out, she had to roll down a grassy hill. Alice could not maneuver the motorized chair down the hill on her own. One attempted trip down the hill resulted in damage to the chair. Under threat of litigation by her attorney at **Legal Services of Central New York**, the landlord built a ramp so Alice could use her front door. Other tenants in the building have also benefited from the new ramp.

Immigration

Jessica, now age 20, grew up in Ecuador. Jessica's father physically abused her and her mother, and once burned Jessica so badly that she still has scars today. At age 10, she and her mother were abandoned by her father and simultaneously began to be threatened by a gang who wanted to take over their farm to harvest drugs. Members of the gang tried to sexually assault Jessica but her mother was able to stop them, though she was severely beaten for interfering. Shortly after this incident, Jessica was forced to drop out of school and move to Ambata where she and her mother were homeless and struggling to survive. A woman, Maria, found them and offered to help, finding them a room to rent and a job for the mother. Maria returned to her home in the U.S. but maintained contact with Jessica. Jessica and her mother continued to struggle to support themselves and when Jessica was 17, she came to the U.S. After being detained at the border, Jessica was released to Maria who has been caring for her ever since. Jessica now has a safe and stable home and is enrolled in English classes. After a hearing in family court, **The Door** obtained a guardianship order for Jessica and applied for Special Immigrant Juvenile Status. **The Door** is also working to terminate Jessica's removal proceedings so she can apply for a green card and pursue her dream of attending college.

III. HOTLINES

Many IOLA grantees operate dedicated hotlines or information lines to provide brief advice or intake over the telephone with respect to specific areas of law.

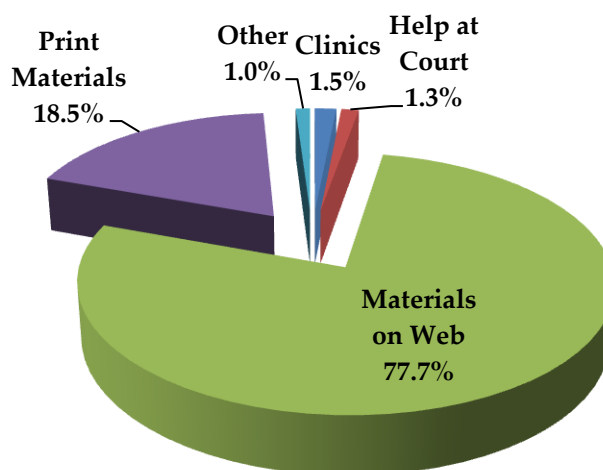
The **City Bar Justice Center's** Civil Legal Hotline, open weekdays from 9am to 5pm, offers legal advice, brief services, information and referrals to over 10,000 poor and low-income New Yorkers annually, from all five boroughs of NYC, through a telephone hotline. The primary areas in which it provides assistance are consumer, family and matrimonial, housing, employment law, and government benefits. The Hotline staff screen calls for income, demographics and the facts of the callers' issues to determine the appropriate course of action. Some callers seek basic legal information or a referral; others are seeking advice on how to proceed pro se.

Catholic Migration Services operates *Linea Laboral*, a bilingual (Spanish-English) hotline to assist low-income immigrant workers regarding unpaid wages and unsafe work conditions. *Linea Laboral* is staffed by bilingual counselors who, under the supervision of the program attorney, answer callers' questions, inform them of their employment rights, and document complaints of wage-hour violations, wage theft, and safety conditions. The counselors also screen callers for additional services. The staff attorney reviews the complaints and determines whether the claims are viable and meet the requirements for filing. If they do, the complaints are filed with the NYS or US Department of Labor. Under a collaborative agreement, the New York State and United States Departments of Labor have agreed to accept these complaints for investigation and enforcement, thus creating a streamlined process to assist immigrant workers to recover wages. Moreover, this service is integrated with other legal services, including federal court litigation, unemployment insurance claims, and immigration legal needs.

IV. PRO SE ASSISTANCE

In 2013-14, IOLA grantees provided assistance that enabled more than 1.83 million people to handle legal matters on their own. The kinds of *pro se* assistance are broken down below, along with examples of grantees' *pro se* programs:

Pro Se Assistance	
Service	People
Clinics	37,154
Help at Court	30,056
Materials on Web	1,865,829
Print Materials	443,209
Other	24,934
Total	2,401,182



MFY Legal Services operates several projects that support pro se litigants:

- Consumer Rights Project provided pro se assistance to approximately 460 pro se litigants and mentored 180 volunteer attorneys through the Civil Legal Assistance Referral Office (CLARO), a citywide program to provide legal help to people being sued for consumer debt.
- Kinship Project held bi-weekly clinics at the Bronx Family Court, meeting with 75 families who were caring for related children to discuss their rights and options and to help them prepare pro se papers.
- Foreclosure Prevention Project conducted weekly court-based clinics at Supreme Court in Kings County, assisting 54 homeowners to complete pro se papers, to clarify the meaning of notices they received from the court, and to guide them on the next steps they needed to take to resolve their cases.

The majority of the matters handled through mediation at CDRCs affiliated with the **New York State Dispute Resolution Association (NYSdra)** occur without the presence of an attorney. Statewide, the CDRCs provided services for 30,020 cases and served over 70,000 individuals in 2013; the majority of those cases were court referrals. Clients are encouraged to consult with attorneys when legal matters are involved, or for review of custody or separation agreements reached in mediation. Educational information, including resources for legal information, is provided as needed during intake. Written materials are offered to clients to help them prepare to participate effectively during their mediation or arbitration sessions.

V. COMMUNITY LEGAL EDUCATION

In 2013-2014, IOLA grantees provided community legal education to more than 3.1 million people through presentations to community groups, distribution of legal education brochures and through other means. In addition, millions of unique visitors accessed websites maintained by IOLA grantees to download legal educational materials.

Examples of community legal education programs:

The **New York State Dispute Resolution Association (NYSdra)** conducted various community legal education programs in 2013-2014 including:

- Six Special Education Mediation presentations reaching 100 individuals.
- The New York State Agricultural Mediation Program (NYSAMP) reached over 6,100 individuals.
- The seven CDRCs which received IOLA funding conducted over 200 sessions reaching over 3,000 individuals on topics ranging from Special Education Mediation, Community Counseling, and Peer Mediation.
- Distribution of brochures on various topics and resources to over 20,000 individuals.

The **Housing Conservation Coordinators (HCC)** organized tenants building-wide to collectively challenge improper practices by building owners. Tenants are first given an overview of tenant's rights in rent regulated housing before the specifics of their building's situation are discussed. In 2013-14, **HCC** assisted 25 buildings to form tenant associations, holding 51 tenant meetings with a total of 568 people in attendance. **HCC** staff provided trainings for 305 people through community groups, such as the West Side Neighborhood Alliance, to educate community residents on a range of issues, including the Mandatory Inclusionary Zoning, Uniform Land Use Review Process, site specific re-zonings proposed, Section 8 and Tenant's Rights.

The **Pro Bono Partnership** made available to New York nonprofit organizations 23 in-person legal, educational workshops and teleconferences to educate nonprofits about pertinent legal matters, encourage them to adopt best practices and help them avoid risk. 744 individuals registered to attend these workshops (not all of whom were from New York State). The **pro Bono Partnership** also provided customized workshops for the employees of a number of client organizations plus numerous other educational workshops, which included:

- Human Resources Issues
- Ethics and Pro Bono Representation of Nonprofits
- Legal Issues for Nonprofits
- What Attorneys Should Know When Serving on the Boards of Tax Exempt Organizations
- Hot Topics for Attorneys Representing Nonprofits

VI. *PRO BONO*

The IOLA grantees managed *pro bono* programs numbering 13,528 *pro bono* attorneys and 2,081 law students who closed 22,061 cases and provided other services. Assuming a billable rate of \$250 per hour, the time that *pro bono* attorneys alone donated was worth over \$132.4 million.

Examples of *Pro Bono* programs in 2013-14:

Seven private attorneys, several of whom are former **CARECEN** staff, assist the paid staff in the analysis and preparation of cases. Each of them has an expertise in a specialty area. For example, Hofstra Law School Professor Lauris Wren is a nationally recognized expert in political asylum and she consults *pro bono* with CARECEN on asylum cases as well as on asylum adjustment matters. CARECEN has a well-established legal internship program utilizing students from local law schools, which expanded this year thanks to stipends generously provided by Touro Law School. Also in 2013, CARECEN began a new joint Immigration Law Clinic at Hofstra University School of Law. Each year, 16 law students are trained by Professor Wren and CARECEN's Program Director Patrick Young. Students received 30 hours of classroom instruction in Naturalization, DACA, Employment Authorization Preparation, Temporary Protected Status, and Family-Based Immigration Law, as well as in the grounds of inadmissibility and available waivers. They then work directly with CARECEN clients for 15 weeks. The program is intended to provide services to indigent clients, improve the training of new immigration lawyers, and create a bond between young lawyers and immigrant communities, as well as introduce the students to the nuts and bolts of small non-profit law offices. Finally, law students at Hofstra and Touro Law Schools also provide *pro bono* citizenship services to persons seeking to become United States Citizens at special Citizenship Days in Suffolk County.

The **Erie County Bar Association Volunteer Lawyer Program (Erie County VLP)** involved approximately 300 attorneys in *pro bono* representation of 1,629 of clients and benefitted 4,525 people. Their *pro bono* attorney panel follows a traditional *pro bono* model of referring individual clients and small not for profit groups. Other attorneys volunteer with their limited scope projects, including the Attorney of the Morning Program (representing tenants facing eviction at Buffalo City Court), Haven House Project (giving counsel and advice to victims of domestic violence); Family Court Help Desk, and Federal Court Pro Se Assistance Program. With all of these approaches, the **Erie County VLP** screens the clients for eligibility and the cases for merit, and also follows up with the *pro bono* attorneys to track the case progress and assist with any issues that may arise. *Pro Bono* attorneys receive training, mentors and technical assistance. At any given time, the **Erie County VLP** utilizes 10-15 "in-house volunteers," including attorneys, law graduates, law students, paralegals, college students and high school students, who help coordinate special projects, conduct client intakes, work on case files and represent clients. We worked with the 8th Judicial District Pro Bono Committee (co-chaired by the Administrative Judge for the 8th Judicial District) and other providers to raise the level of awareness of *pro bono* and to recruit *pro bono* attorneys throughout the eight counties of the district.

VII. PARTNERSHIPS

Seeking to leverage resources and better serve their communities, IOLA grantees collaborate to a great extent and frequently form strong partnerships with each other, government agencies, law enforcement, community based organizations, hospitals, bar associations and others.

Examples of partnerships:

The **Center for Family Representation (CFR)** partners with more than 20 agencies across New York City including community based organizations, hospitals, and legal service providers. Partners include Child Welfare Organizing Project (CWOP), St. Luke's Parent Infant Center, Sanctuary for Families, Samaritan Village, Inwood House, and major hospitals. To serve our Queens clients, we have built partnerships with the Queens branch of the Legal Aid Society, Queens Community House, Safe Space, and the Family Resource Center of Eastern Queens. **CFR** has also partnered with agencies that focus on work with immigrants in order to assist the growing and diverse immigrant communities in Queens, such as Latin Women in Action, American Family Community Services, Queens Family Resource Center, Child Center of New York, Asian Outreach Center, Elmcors, and Adhikaar. Additionally, CFR partners informally with other legal service providers around New York City by referring cases to each other. These include the Brooklyn Family Defense Project, Bronx Legal Services, South Brooklyn Legal Services, Legal Assistance Group, and Bronx Defenders.

The **Workers Justice Center of New York (WJCNY)**, together with the Rural Law Center, The Legal Project and Legal Services for the Elderly, comprise the Partnership of Upstate Legal Services (PULSE). Each of the PULSE partners targets upstate New York's most underserved, vulnerable citizens. Through PULSE the organizations are collaborating to share resources and provide each program with a network of staffed "field" offices. Whether it is sharing staff to do initial intakes, providing video conferencing for long distance client/attorney contact, or conducting outreach for our PULSE partners' programs, PULSE substantially leverages each program's capacity to effectively serve more clients. As the only non-LSC migrant program in the State, the **WJCNY** takes referrals of farm issues from the LSC migrant program which is restricted by federal funding regulations. The **WJCNY** has developed a strong coalition to direct farm workers for legal assistance. For example, workers compensation and personal injury cases are directed to private attorneys with assistance from the Monroe County Volunteer Legal Services Project and the Syracuse University Law School Tax Clinic. The **WJCNY** has also collaborated extensively with service providers and law enforcement agencies to facilitate task forces in the North Country, the Capitol Region and Central New York that combat human trafficking.

VIII. IOLA GRANTS: April 1, 2013 – MARCH 31, 2015

Civil Legal Services: \$33,060,000 Awarded (2 year grants)

“No less than seventy-five percent of the total funds distributed in any fiscal year shall be allocated to not-for-profit tax-exempt providers for the purpose of delivering civil legal services to the poor. The funds distributed annually to legal services providers shall be allocated according to the geographical distribution of poor persons throughout the state based on the latest available figures from the United States department of commerce, bureau of census, as prescribed by rules and regulations of the board of trustees.” State Finance Law 97-v(3)(b).

Civil Legal Services Grantee	2013 - 15
Bronx Defenders – Civil Action Practice Bronx, NY www.bronxdefenders.org	\$200,000
Empire Justice Center Albany, NY www.empirejustice.org	\$1,100,000
Frank H. Hiscock Legal Aid Society Syracuse, NY www.hiscocklegalaid.org	\$700,000
Legal Aid Bureau of Buffalo Buffalo, NY www.legalaidbuffalo.org	\$440,000
The Legal Aid Society New York, NY www.legal-aid.org	\$6,620,000
Legal Aid Society of Northeastern New York Albany, NY www.lasnny.org	\$1,960,000
Legal Aid Society of Rochester Rochester, NY www.lasroc.org	\$1,150,000
Legal Aid Society of Rockland County New City, NY www.legalaidrockland.org	\$230,000
Legal Assistance of Western New York Geneva, NY www.lawny.org	\$1,500,000

Civil Legal Services Grantee	2013 - 15
Legal Services for NYC New York, NY www.legalservicesnyc.org	\$6,620,000
Legal Services of Central New York Syracuse, NY www.lscny.org	\$1,800,000
Legal Services of the Hudson Valley White Plains, NY www.lshv.org	\$2,400,000
MFY Legal Services New York, NY www.mfy.org	\$620,000
Nassau/Suffolk Law Services Committee Hempstead, NY www.nslawservices.org	\$1,940,000
Neighborhood Legal Services Buffalo, NY www.nls.org	\$1,420,000
New York Legal Assistance Group New York, NY www.nylag.org	\$1,400,000
Northern Manhattan Improvement Corp. New York, NY www.nmic.org	\$1,200,000
Rural Law Center of New York Plattsburgh, NY www.rurallawcenter.org	\$400,000
Urban Justice Center New York, NY www.urbanjustice.org	\$660,000
Western New York Law Center Buffalo, NY www.wnyc.com	\$700,000

Administration of Justice: \$10,940,000 Awarded (2 year grants)

“The remaining funds shall be allocated for purposes related to the improvement of the administration of justice, including, but not limited to, the provision of civil legal services to groups currently underserved by legal services, such as the elderly and the disabled, and the enhancement of civil legal services to the poor through innovative and cost-effective means, such as volunteer lawyer programs and support and training services.” State Finance Law ‘97-v(3)(c).

Administration of Justice Grantee	Category	2013 - 15
Advocates For Children New York, NY www.advocatesforchildren.org	Special Populations	140,000
Albany County Bar Association Albany, NY www.albanycountybar.com	<i>Pro Bono</i>	80,000
Asian American Legal Defense and Education Fund New York, NY www.aaldef.org	Special Populations	100,000
Brooklyn Bar Association: Volunteer Lawyers Project Brooklyn, NY www.brooklynvlp.org	<i>Pro Bono</i>	240,000
Brooklyn Defender Service Brooklyn, NY www.bds.org	Special Populations	100,000
Brooklyn Legal Services Corporation A Brooklyn, NY www.bka.org	Special Populations	100,000
CAMBA Legal Services Brooklyn, NY www.camba.org	Special Populations	720,000
Capitol District Women’s Bar Ass’n-The Legal Project Albany, NY www.legalproject.org	Special Populations	300,000
Catholic Charities Community Services New York, NY www.catholiccharitiesny.org	Special Populations	220,000
Catholic Migration Services Queens, NY www.catholicmigration.org	Special Populations	90,000
Center for Family Representation New York, NY www.cfrny.org	Special Populations	140,000
Central American Legal Assistance Brooklyn, NY www.centralamericanlegal.info	Special Populations	100,000

Administration of Justice Grantee	Category	2013 - 15
Central American Refugee Center Hempstead, NY www.longislandwins.com	Special Populations	120,000
Day One New York, NY www.dayoneny.org	Special Populations	60,000
City Bar Justice Center New York, NY www.citybarjusticecenter.org	<i>Pro Bono</i>	370,000
Erie County Bar Association Buffalo, NY www.ecbavlp.com	<i>Pro Bono</i>	440,000
Family Center, The Brooklyn, NY www.thefamilycenter.org	Special Populations	80,000
Housing Conservation Coordinators New York, NY www.hcc-nyc.org	Special Populations	200,000
Immigration Legal Services of Long Island, Inc. Watermill, NY www.ilsoli.org	Special Populations	80,000
Her Justice (f/k/a inMotion) New York, NY www.inmotiononline.org	Special Populations	280,000
Journey's End Refugee Services, Inc. Buffalo, NY www.jersbuffalso.org	Special Populations	50,000
LatinoJustice PRLDEF New York, NY www.latinojustice.org	Special Populations	150,000
LawHelp NY Consortium New York, NY www.LawHelp.org/NY	Delivery Innovations/ Technology	430,000
Lawyers Alliance For New York New York, NY www.lawyersalliance.org	<i>Pro Bono</i>	250,000
Legal Action Center New York, NY www.lac.org	Special Populations	150,000

Administration of Justice Grantee	Category	2013 - 15
Legal Aid Society of Mid-New York Utica, NY www.lasmny.org	Special Populations	200,000
Legal Information for Families Today (LIFT) Brooklyn, NY www.LIFTonline.org	Special Populations	170,000
Legal Services for the Elderly, Disabled or Disadvantaged of Western New York Buffalo, NY www.lsed.org	Special Populations	420,000
Lenox Hill Neighborhood House New York, NY www.lenoxhill.org	Special Populations	150,000
Long Island Advocacy Center New Hyde Park, NY www.theliac.org	Special Populations	170,000
Lutheran Social Services of New York New York, NY www.lssny.org	Special Populations	100,000
Make The Road New York Brooklyn, NY www.maketheroadny.org	Special Populations	350,000
My Sister's Place White Plains, NY www.mspny.org	Special Populations	120,000
National Center For Law And Economic Justice New York, NY www.nclej.org	Statewide/ Regional	70,000
New York Community Trust: Fund for New Citizens New York, NY www.nycommunitytrust.org	Special Populations	550,000
New York County Lawyers Association New York, NY www.nycla.org	<i>Pro Bono</i>	80,000
New York Lawyers For The Public Interest New York, NY www.nylpi.org	Special Populations	370,000
New York State Dispute Resolution Association Albany, NY www.nysdra.org	Statewide/ Regional	190,000
Onondaga Co. Bar Ass'n-Volunteer Lawyers Project Syracuse, NY www.onbar.org	<i>Pro Bono</i>	90,000

Administration of Justice Grantee	Category	2013 - 15
Partnership For Children's Rights New York, NY www.pfcr.org	Special Populations	240,000
Partnership for the Homeless New York, NY www.partnershipforthehomeless.org	Special Populations	120,000
Pro Bono Net New York, NY www.probono.net	Delivery Innovations/ Technology	170,000
Pro Bono Partnership White Plains, NY www.probonopartnership.org	<i>Pro Bono</i>	120,000
Queens Volunteer Lawyers Project Jamaica, NY www.qcba.com	<i>Pro Bono</i>	100,000
Ridgewood Bushwick Senior Citizens Council Brooklyn, NY www.rbscc.org	Special Populations	300,000
Safe Horizon Brooklyn, NY www.safehorizon.org	Special Populations	300,000
Sanctuary for Families New York, NY www.sanctuaryforfamilies.org	Special Populations	300,000
Selfhelp Community Services New York, NY www.selfhelp.net	Special Populations	80,000
The Door New York, NY www.door.org	Special Populations	150,000
Volunteer Legal Services Project of Monroe County Rochester, NY www.vlsprochester.org	<i>Pro Bono</i>	220,000
Volunteers of Legal Services New York, NY www.volsprobono.org	<i>Pro Bono</i>	240,000
Workers' Justice Law Center Rochester, NY www.wjcnj.org	Special Populations	580,000

IX. STATUTES AND REGULATIONS

State Finance Law §97-v

1. There is hereby established in the custody of the state comptroller a fiduciary fund to be known as the New York interest on lawyer account (IOLA) fund. A board of trustees shall be appointed to administer the New York IOLA fund.

2. The board shall consist of fifteen members appointed by the governor. All members shall be residents of the state of New York and shall be knowledgeable and supportive of the delivery of civil legal services to the poor and the improvement of the administration of justice. At least eight of the members shall be attorneys licensed to practice law in the state of New York. Two members shall be appointed upon the recommendation of the temporary president of the senate, at least one of whom shall be an attorney; two members shall be appointed upon the recommendation of the speaker of the assembly, at least one of whom shall be an attorney; one member shall be appointed upon the recommendation of the minority leader of the senate; and one member shall be appointed upon the recommendation of the minority leader of the assembly. Two members shall be appointed upon the recommendation of the court of appeals, each of whom shall be an attorney. The governor shall designate one of the members of the board as chairman.

a. The term of office shall be three years, provided, however, that of the members first appointed, five shall be appointed for terms expiring on December thirty-first, nineteen hundred eighty-four, five shall be appointed for terms expiring on December thirty-first, nineteen hundred eighty-five and five shall be appointed for terms expiring on December thirty-first, nineteen hundred eighty-six. Vacancies shall be filled in the manner of original appointments for the remainder of the term.

b. The members shall receive no compensation for their services as members, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

c. The members shall be considered employees of the state for the purposes of section seventeen of the public officers law.

d. No member of the senate or assembly shall be eligible to serve as a member of the board.

3. a. The board shall have the power to receive, hold and manage any moneys and property received from any source. It shall distribute funds as grants and contracts to not-for-profit tax-exempt entities for the purpose of delivering civil legal services to the poor and for purposes related to the improvement of the administration of justice, including, but not limited to, the provision of civil legal services to groups currently underserved by legal services, such as the elderly and the disabled, and the enhancement of civil legal services to the poor through innovative and cost-effective means, such as volunteer lawyer programs and support and training services.

b. No less than seventy-five percent of the total funds distributed in any fiscal year shall be allocated to not-for-profit tax-exempt providers for the purpose of delivering civil legal services to the poor. The funds distributed annually to legal services providers shall be allocated according to the geographical distribution of poor persons throughout the state based on the latest available figures from the United States department of commerce, bureau of census, as prescribed by rules and regulations of the board of trustees.

c. The remaining funds shall be allocated for purposes related to the improvement of the administration of justice, including, but not limited to, the provision of civil legal services to groups currently underserved by legal services, such as the elderly and the disabled, and the enhancement of civil legal services to the poor through innovative and cost-effective means, such as volunteer lawyer programs and support and training services.

d. The board shall adopt rules and regulations for the administration of the IOLA fund to carry out the purposes and provisions of this section and of section four hundred ninety-seven of the judiciary law. Such regulations shall be adopted in accordance with article two of the state administrative procedure act.

e. The board may employ and remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor and may allocate funds for the actual and necessary nonpersonnel administrative costs of the program. No more than ten percent of the funds available in any fiscal year shall be spent on personnel and related services, and on necessary nonpersonnel administrative costs of the program provided, however, that such limitations may be waived by the board by the adoption of a resolution and such waiver shall remain in effect until the board determines by a subsequent resolution that the program is fully operational.

f. The board shall insure that grants and contracts are made with not-for-profit providers of civil legal services for the poor to provide stable, economical and high quality delivery of civil legal services to the poor throughout the state.

g. Notwithstanding any statute or rule to the contrary, the board shall maintain all papers, records, documents or other information identifying an attorney, client or beneficial owner of an IOLA account on a private and confidential basis and shall not disclose such information unless such disclosure is necessary to accomplish the purposes of this section and section four hundred ninety-seven of the judiciary law, or unless disclosure is pursuant to compulsory legal process.

h. All payments from the IOLA fund shall be made by the state comptroller upon certification and authorization of the board of trustees of the fund.

4. a. The board of trustees shall establish by regulation a specific dollar amount equivalent to the cost of administering a segregated interest bearing account for a client or beneficial owner. This dollar amount may be used by participating attorneys as a guide when determining whether the moneys are qualified funds.

b. The board of trustees shall also establish by regulation the qualifications of a recipient of funds and the nature and scope of civil legal services to be provided to poor persons by the funds disbursed under this section.

5. If it shall appear to the satisfaction of the board of trustees that, because of a mistake of fact, error in calculation or erroneous interpretation of the provisions of this chapter or of section four hundred ninety-seven of the judiciary law, or of any regulation adopted by the board, a banking institution has remitted to the IOLA fund any moneys not required by such provisions to be remitted, the board shall refund such moneys upon application of any aggrieved party. Any such refund shall be paid from the IOLA fund without interest and without the deduction of any service charge, and shall be and constitute a full satisfaction and discharge of any claim for such refund.

Judiciary Law §497

1. An "interest on lawyer account" or "IOLA" is an unsegregated interest-bearing deposit account with a banking institution for the deposit by an attorney of qualified funds.

2. "Qualified funds" are moneys received by an attorney in a fiduciary capacity from a client or beneficial owner and which, in the judgment of the attorney, are too small in amount or are reasonably expected to be held for too short a time to generate sufficient interest income to justify the expense of administering a segregated account for the benefit of the client or beneficial owner. In determining whether funds are qualified for deposit in an IOLA account, an attorney may use as a guide the regulation adopted by the board of trustees of the IOLA fund pursuant to subdivision four of section ninety-seven-v of the state finance law.

2-a. "Funds received in a fiduciary capacity" are funds received by an attorney from a client or beneficial owner in the course of the practice of law, including but not limited to funds received in an escrow capacity, but not including funds received as trustee, guardian or receiver in bankruptcy.

3. A "banking institution" means a bank, trust company, savings bank, savings and loan association, credit union or foreign banking corporation whether incorporated, chartered, organized or licensed under the laws of this state or the United States, provided that such banking institution conducts its principal banking business in this state.

4. (a) An attorney shall have discretion, in accordance with the code of professional responsibility, to determine whether moneys received by an attorney in a fiduciary capacity from a client or beneficial owner shall be deposited in non-interest, or in interest bearing accounts. If in the judgment of an attorney any moneys received are qualified funds, such funds shall be deposited in an IOLA account in a banking institution of his or her choice offering such accounts.

(b) The decision as to whether funds are nominal in amount or expected to be held for a short period of time rests exclusively in the sound judgment of the lawyer or law firm. Ordinarily, in determining the type of account into which to deposit particular funds held for a client, a lawyer or law firm shall take into consideration the following factors:

(i) the amount of interest the funds would earn during the period they are expected to be deposited;

(ii) the cost of establishing and administering the account, including the cost of the lawyer or law firm's services;

(iii) the capability of the banking institution, through subaccounting, to calculate and pay interest earned by each client's funds, net of any transaction costs, to the individual client.

(c) All qualified funds shall be deposited in an IOLA account unless they are deposited

in:

(i) a separate interest bearing account for the particular client or client's matter on which the interest will be paid to the client; or

(ii) an interest bearing trust account at a banking institution with provision by the bank or by the depositing lawyer or law firm for computation of interest earned by each client's funds and the payment thereof to the client.

(d) Notwithstanding the deposit requirements of this subdivision, no attorney or law firm shall be liable in damages nor held to answer for a charge of professional misconduct for failure to deposit qualified funds in an IOLA account.

5. No attorney or law firm shall be liable in damages nor held to answer for a charge of professional misconduct because of a deposit of moneys to an IOLA account pursuant to a judgment in good faith that such moneys were qualified funds.

6. (a) An attorney or law firm which receives qualified funds in the course of its practice of law and establishes and maintains an IOLA account shall do so by (1) designating the account as "(name of attorney/law firm IOLA account)" with the approval of the banking institution; and (2) notifying the IOLA fund within thirty days of establishing the IOLA account of the account number and name and address of the banking institution where the account is deposited.

(b) The rate of interest payable on any IOLA account shall be not less than the rate paid by the banking institution on similar accounts maintained at that institution, and the banking institution shall not impose on such accounts any charges or fees greater than it imposes on similar accounts maintained at that institution.

(c) With respect to IOLA accounts, the banking institution shall:

(i) Remit at least quarterly any interest earned on the account directly to the IOLA fund, after deduction of service charges or fees, if any, are applied.

(ii) Transmit to the IOLA fund with each remittance a statement showing at least the name of the account, service charges or fees deducted, if any, and the amount of net interest remitted from such account.

(iii) Transmit to each attorney or law firm which maintains an IOLA account a statement showing at least the name of the account, service charges or fees deducted, if any, and the amount of interest remitted from such account.

(iv) Be permitted to impose reasonable service charges for the preparation and issuance of the statement.

(v) Have no duty to inquire or determine whether deposits consist of qualified funds.

7. (a) Payment from an IOLA account to or upon the order of the attorney maintaining

such account shall be a valid and sufficient release of any claims by any person or entity against any banking institution for any payments so made.

(b) Any remittance of interest to the IOLA fund by a banking institution pursuant to this section shall be a valid and sufficient release and discharge of any claims by any person or entity against such banking institution for any payment so made, and no action shall be maintained against any banking institution solely for opening, offering, or maintaining an IOLA account, for accepting any funds for deposit to any such account or for remitting any interest to the IOLA fund.

8. Nothing contained in this section shall be construed to require any banking institution to offer, accept or maintain IOLA accounts.

9. All papers, records, documents or other information identifying an attorney, client or beneficial owner of an IOLA account shall be confidential and shall not be disclosed by a banking institution except with the consent of the attorney maintaining the account or as permitted by any law, regulation or administrative requirement.

10. An attorney or law firm that can establish that compliance with subdivision six of this section has resulted in any banking service charges or fees shall be entitled to reimbursement of such expense from the interest on lawyer account fund by filing a claim with supporting documentation with the fund.

New York Codes, Rules and Regulations
TITLE 21. MISCELLANEOUS
CHAPTER LXIX. INTEREST ON LAWYER ACCOUNT FUND
PART 7000. TRUSTEES' REGULATIONS AND PROCEDURES

7000.1 Purpose of fund.

The purpose of the Interest on Lawyer Account Fund is to provide funding for providers of civil legal services in order to ensure effective access to the judicial system for all citizens of the State and to provide stable, economical and high quality delivery of civil legal services to the poor throughout the State. The fund is authorized to receive funds from any source for disbursement to nonprofit legal services providers for charitable purposes, including the delivery of legal services in civil matters to poor persons. The fund will receive interest or dividends earned by qualified client funds held by attorneys in unsegregated interest-bearing or dividend-bearing accounts at banking institutions to the extent that such institutions choose to offer and receive the benefits of providing IOLA accounts, and will utilize the interest or dividends so received for the above-stated purposes.

7000.2 Definitions.

(a) Banking institutions are banks, trust companies, savings banks, savings and loan associations, credit unions or foreign banking corporations whether incorporated, chartered, organized or licensed under the laws of this State or the United States, provided that such banking institutions have a banking office in this State.

(b) Eligible bank or eligible banking institution means a banking institution that maintains IOLA accounts that comply with section 497 of the New York Judiciary Law, section 97-v of the New York State Finance Law and the criteria provided in these regulations, and has been approved by the Board of Trustees to maintain IOLA accounts.

(c) Funds received in a fiduciary capacity are funds received by an attorney or a law firm from a client or third person in the course of the practice of law, including but not limited to funds received in an escrow capacity, but not including funds received as trustee, executor, administrator, guardian or receiver in bankruptcy.

(d) Interest on Lawyer Account or IOLA account means an unsegregated interest-bearing or dividend-bearing account, as approved by the Board of Trustees of the IOLA fund, maintained in an eligible bank for the deposit by an attorney or law firm as a fiduciary of qualified funds.

(e) Qualified funds are moneys received by an attorney or a law firm in a fiduciary capacity from a client or a third person and which, in the sole discretion and judgment of the attorney or law firm, are too small in amount or are reasonably expected to be held for too short a time to generate sufficient income to justify the expense of administering a segregated account for the benefit of the client or third person and cannot earn income for a client or third person in excess of the costs incurred to secure such income. Qualified funds do not include those moneys which are deposited for the particular client or client's matter on which the interest will be paid to the client or an interest-bearing trust account at a banking institution with provision by the bank or by the depositing attorney or law firm for computation of interest earned by the client funds and the payment thereof to the client.

(f) New York Interest on Lawyer Account fund or IOLA fund means the fiduciary fund established by subdivision (1) of section 97-v of the New York State Finance Law and administered by the IOLA Board of Trustees.

(g) IOLA board of trustees, board of trustees or board means the body of individuals appointed by the Governor pursuant to subdivision (2) of section 97-v of the New York State Finance Law that is authorized to administer the IOLA fund.

7000.3 Organization.

(a) The IOLA fund shall be administered by a board of trustees appointed by the Governor.

(b) The board of trustees shall consist of 15 members, at least eight of whom shall be attorneys licensed to practice in New York. Two of the appointments, at least one of whom shall be an attorney, shall be appointed on the recommendation of the President of the Senate; two of the appointments, at least one of whom shall be an attorney, shall be appointed on the recommendation of the Speaker of the Assembly; one appointment shall be on the recommendation of the Minority Leader of the Senate and one on the recommendation of the Minority Leader of the Assembly. Two of the appointments, both of whom shall be attorneys, shall be appointed on the recommendation of the Court of Appeals. The Governor shall designate one member of the board as chair. No member of the Senate or Assembly shall be eligible to serve as a member of the board.

(c) The term of a trustee shall be three years. Of the trustees first appointed, five shall be appointed for terms expiring December 31, 1984; five shall be appointed for terms expiring December 31, 1985; and five shall be appointed for terms expiring December 31, 1986. As each term expires, each new appointment shall be for a term of three years. Vacancies shall be filled in the manner of the original appointment for the remainder of the term.

(d) The trustees shall employ an executive director to serve as the chief administrative officer of the fund.

(e) The trustees shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties.

7000.4 Meetings.

(a) The trustees shall meet at least quarterly each year at such locations, and in such manner, as the chair shall designate. Special meetings may be called by the chair, and shall be called by the chair upon the request of at least four trustees. The chair shall provide reasonable notice of all meetings.

(b) Eight trustees shall constitute a quorum. A majority of the trustees present at any meeting of the board may exercise any powers held by the trustees, except as otherwise provided in this Part.

7000.5 Powers and duties of trustees.

(a) In the exercise of the authority granted the trustees, the trustees have the power to:

(1) receive, hold and distribute the moneys remitted to the IOLA fund pursuant to the provisions of section 497 of the Judiciary Law and to receive such other moneys and property

received from any source, including voluntary contributions, together with any interest accrued thereon. All such revenue not distributed shall be secured and invested as required by the provisions of sections 97-v and 98 of the State Finance Law;

(2) require eligible banking institutions that apply to be considered eligible to accept the deposit of IOLA funds to verify their current compliance with New York Judiciary Law 497, New York State Finance Law 97-v and these regulations and determine eligibility for the deposit of IOLA funds;

(3) make available to the public the names of eligible banking institutions;

(4) allocate no less than 75 percent of the net funds distributed after covering administrative expenses in any fiscal year as grants and contracts to not-for-profit tax-exempt "qualified legal services providers," as defined by section 7000.12(a)(1) of this Part, for the provision of civil legal services to the poor allocated according to the geographic distribution of poor persons throughout the State based on the latest available figures from the United States Department of Commerce, Bureau of Census;

(5) allocate the remaining funds to "administration of justice providers," as defined by section 7000.12(a)(2) of this Part, for purposes related to the improvement of the administration of justice, including but not limited to the provision of civil legal services to groups currently underserved by legal services, such as the elderly and the disabled, and the enhancement of civil legal services to the poor through innovative and cost-effective means, such as volunteer lawyer programs and support and training services;

(6) adopt and amend regulations for the administration of the fund and procedures for the distribution of grants and contracts;

(7) review applications for grants and contracts using staff and other available resources;

(8) determine, pursuant to the provisions of section 97-v of the State Finance Law, the award of grants and contracts, including the amount to be awarded and the terms under which the awards of grants and contracts shall be made;

(9) employ and remove, at their pleasure, employees, agents and consultants and fix their compensation within the amounts available therefor, but in no event shall more than 10 percent of the funds available in any fiscal year be spent on personnel and related services, including necessary nonpersonnel administrative costs of the program; provided, however, that pursuant to section 97-v of the State Finance Law as amended by the Laws of 1984, such limitation may be waived by the board of trustees by the adoption of a resolution, and such waiver shall remain in effect until the board determines by a subsequent resolution that the program is fully operational;

(10) furnish the Governor, the Court of Appeals, the Legislature and the State Comptroller with an annual report of the activities and operations of the fund; and

(11) perform all other acts necessary or proper for the fulfillment of the purpose of the fund and its effective administration, including but not limited to the creation of

subcommittees of the board and the appointment of officers other than chair.

(b) Powers and duties of officers. The duties of the officers of the fund shall be as follows:

(1) the chair shall preside at all meetings of the trustees, generally supervise the administration of the fund and exercise such other functions and duties that the trustees may assign or delegate, or that are customary to the office of the chair;

(2) the vice-chair shall assume the duties of the chair in the absence or disability of the chair;

(3) the treasurer shall maintain the financial records of the fund and, jointly with the chair, certify vouchers of the fund that authorize the State Comptroller to make payments of grants and contracts; and

(4) the executive director shall assist the trustees, supervise the implementation of regulations, coordinate the review of applications, supervise staff, serve as secretary at meetings and fulfill such other duties as may be assigned or delegated by the chair or the trustees.

7000.6 Conflict of interest.

A trustee with a past or present affiliation with an applicant (including employee, officer, director, trustee, counsel or business relationship) for distribution of funds shall declare such affiliation to the trustees, and that trustee shall not participate in a vote on any matter relating directly to such applicant.

7000.7 Reports.

(a) On or after the first day of April each year, the trustees shall prepare an annual report of the activities and operations of the fund during the preceding year. The report shall be transmitted to the Governor, the Legislature, the Court of Appeals and the State Comptroller.

(b) The trustees may issue periodic reports to the public concerning the activities and procedures of the fund.

7000.8 Establishment of IOLA accounts by attorneys and law firms.

(a) Participation in IOLA is mandatory. Each attorney or law firm that receives qualified funds shall establish and maintain an IOLA account in an eligible banking institution of the attorney's or law firm's choosing. An attorney or law firm which receives qualified funds in the course of its practice of law and establishes and maintains an IOLA account shall (i) designate the account as "(name of attorney/law firm IOLA account)" with the approval of the banking institution and (ii) notify the IOLA fund within 30 days of establishing the IOLA account of the account number and the name and address of the eligible banking institution where the account is deposited. Such attorney or law firm:

(1) shall have discretion, in accordance with the code of professional responsibility, to determine whether moneys received by the attorney or law firm in a fiduciary capacity from a client or third person shall be deposited in a nonsegregated IOLA account;

(2) shall, if in the judgment of the attorney or law firm any moneys received are

qualified funds, deposit such funds in an IOLA account;

(3) shall, ordinarily, in determining the type of account into which to deposit particular funds held for a client or third person, take into consideration the following factors:

(i) the amount of the funds received, the interest or dividends the funds would earn during the period they are expected to be deposited, the expected duration of the deposit, the rates of interest or yield and service charges or fees at a banking institution where the funds may be deposited;

(ii) the cost of establishing and administering non-IOLA accounts for clients or third persons, including the cost of the lawyer or law firm's services, and including the cost of obtaining tax identification information, the necessity or propriety of completing tax reports and forms, and remitting interest to a client;

(iii) the capability of the banking institution, or attorney or law firm, to calculate and pay interest earned by each client's fund, net of any service charges, fees or other applicable costs, to the particular clients, including through the use of subaccounting;

(iv) any other circumstances that affect the ability of the funds to earn income for a client or third person in excess of the costs incurred to secure such income while the funds are held.

(b) Notwithstanding the deposit requirements of this subdivision, no attorney or law firm shall be liable in damages nor held to answer for a charge of professional misconduct because of a deposit of moneys into an IOLA account pursuant to the attorney's good faith judgment that such moneys were qualified funds.

(c) Attorneys with accounts in a financial institution which ceases for any reason to be an eligible banking institution for IOLA accounts shall move such accounts to an eligible banking institution.

(d) An attorney or law firm that establishes that compliance with the foregoing provisions of this section has resulted in any banking service charges or fees to such attorney or law firm shall be entitled to reimbursement of such charges or fees from the interest on the IOLA account of such attorney or law firm by filing a claim with supporting documentation with the IOLA fund within 90 days of the imposition of such charges or fees, as approved by the Board. In no event, however, shall the attorney or law firm be entitled to reimbursement in excess of the interest earned by such IOLA account.

7000.9 Interest and dividends.

(a) To be considered presumptively eligible for the deposit of IOLA funds, an IOLA account shall pay an interest or dividend rate on IOLA accounts which is not less than the highest rate available among the following types of accounts, as paid by the banking institution to its best customers on accounts maintained at that institution which are determined to be similar to its IOLA accounts:

(1) A money market account with or tied to check writing capability;

(2) A government (such as for municipal deposits) checking account;

(3) An open-end money market fund investment offered through the banking institution that is (i) tied to check writing capability at the institution, (ii) and which fund is solely invested in, or fully collateralized by, U.S. Government securities and (iii) has total assets of at least \$250,000,000; or

(4) Any other interest- or dividend-paying product with or tied to check-writing capability at the institution.

(b) As alternatives to the foregoing, the institution requesting designation by the trustees of an account as eligible to accept the deposit of IOLA funds may offer:

(1) The greater of 60% of the Federal Funds Target Rate or 1%, paid on an interest-bearing checking account; or

(2) A yield specified by the IOLA fund, if it so chooses, which is agreed to by the financial institution and would be in effect for a period to be mutually agreed upon.

(c) The following additional provisions are applicable. As indicated by their terms, some apply only to one or some of the options set forth above.

(1) The Federal Funds Target Rate referenced in paragraph (1) of subdivision (b) shall be calculated as of the first day of each month.

(2) A bank may elect to offer the highest rates that it pays on government or high-yield money market accounts on another qualifying IOLA checking account, instead of actually offering such account.

(3) Institutions may elect to pay a higher interest or dividend rate than provided for in this section.

(4) All participating financial institutions shall report, in the form and manner prescribed by the IOLA fund, on the best rate paid to their best customers for each of the types of accounts they offer within the definitions specified in paragraphs (1) through (4) of subdivision (a) above. To enable attorneys and law firms to open and maintain an IOLA account, an eligible banking institution shall, within 60 days of the effective date of these regulations and as requested thereafter, provide to the IOLA board information that demonstrates compliance with the provisions of this section.

(5) Where there is reasonable cause to believe a financial institution is willfully misrepresenting its best rate information, the IOLA fund may condition continued approval status on a finding by the institution's auditor that its certifications have been accurate.

(d) The IOLA Board shall periodically monitor the effectiveness of this standard.

7000.10 Eligible banking institutions.

With respect to IOLA accounts, eligible banking institutions that choose to offer, establish, accept or maintain IOLA accounts:

- (a) shall have no duty to inquire or determine whether deposits consist of qualified funds;
- (b) shall charge only equitable service charges or fees against the interest earned on IOLA accounts which shall not be greater than it imposes on similar accounts maintained at the institution and shall be limited to per check charges, per deposit charges, monthly maintenance fees, a fee in lieu of a minimum balance, federal deposit insurance fees, or a service charge for the preparation and issuance of reports required by this section, as approved by the trustees of the fund. All other fees for special services requested by the account-holder are the responsibility of, and may be charged to, the lawyer or law firm maintaining the IOLA account;
- (c) may elect to waive any charges or fees on IOLA accounts;
- (d) shall remit at least quarterly any interest earned on IOLA accounts to the IOLA fund, after deduction of equitable service charges or fees, if any;
- (e) shall not take any equitable service charges or fees in excess of the interest or dividends earned on an IOLA account for any month or quarter from interest or dividends earned on another IOLA account or from the principal of the account and such charges or fees in excess of the interest or dividends earned on an IOLA account may be carried over to the next remitting periods and deducted from interest or dividends earned in such account;
- (f) shall transmit to the IOLA fund with each remittance a report that shall identify each lawyer or law firm for whom the remittance is sent, the amount of remittance attributable to each IOLA account, the rate and type of interest or dividends applied, the amount of interest or dividends earned, the amount and type of fees deducted, if any, and the average balance for each IOLA account for the period in which the report is made;
- (g) shall transmit to each attorney or law firm who maintains an IOLA account a report in accordance with the normal procedures for reporting to its depositors;
- (h) shall have no liability for any claims by any person or entity for payments from an IOLA account to or upon the order of the attorney or law firm maintaining the account;
- (i) shall have no liability for any claims by any person or entity for any remittance of interest to the IOLA fund pursuant to the provisions of section 97-v of the State Finance Law; and
- (j) shall not be subject to any action solely by reason of its opening, offering or maintaining an IOLA account, accepting any funds for deposit to any such accounts or remitting any interest to the IOLA fund. If in the sole discretion of the board of trustees of the IOLA fund, a banking institution has, because of a mistake of fact, error in calculation or erroneous interpretation of section 97-v of the State Finance Law, section 497 of the Judiciary Law or of this Part, remitted to the IOLA fund any moneys not required by such provision to be remitted, the board of trustees shall refund such moneys upon application of any aggrieved party. Any such refund shall be paid from the IOLA fund without interest and without the deduction of any service charge and shall constitute a full satisfaction and discharge of any claim for such refund.

7000.11 Confidentiality.

- (a) All records, documents or other information identifying an attorney or law firm, client or

third person of an IOLA account shall be confidential and shall not be disclosed by a banking institution except with the consent of the attorney or law firm maintaining the account or as required by law, regulation, administrative requirement or compulsory legal process.

(b) The board of trustees shall maintain all papers, records, documents or other information identifying an attorney or law firm, client or third person of an IOLA account on a private and confidential basis, and shall not disclose such information unless such disclosure is (1) necessary to accomplish the purposes of section 497 of the Judiciary Law and section 97-v of the State Finance Law or (2) made pursuant to compulsory legal process.

7000.12 Qualified recipients.

(a) Qualified recipients shall be not-for-profit entities, tax-exempt under section 501(a) of the Internal Revenue Code, or any successor provision, eligible to receive distributions of IOLA funds pursuant to one or both of the following categories:

(1) Qualified legal services providers which shall be an entity which operates within New York State and provides direct civil legal services without charge to poor persons within a geographical area in New York State; or

(2) Administration of justice providers which shall be an entity which operates within New York State and which:

(i) enhances civil legal services to the poor through innovative and cost-effective means;

(ii) provides direct civil legal services either to groups of clients currently underserved by legal services, such as the elderly or the disabled, or in an area of representation, whether substantive or geographical, that cannot be or is not effectively served by individual qualified legal services providers;

(iii) provides legal, management or operational training, or legal, management, support service, or technical assistance, or direct legal assistance, informational advocacy or litigation support to qualified legal services providers; or

(iv) which otherwise promotes the improvement of the administration of justice.

(b) All qualified recipients shall:

(1) ensure that the funds received are expended in accordance with the provisions of section 97-v of the State Finance Law, section 497 of the Judiciary Law and this Part;

(2) preserve the attorney-client privilege in all cases;

(3) ensure that no one shall interfere with any attorney funded in whole or in part by IOLA funds in fulfilling a professional responsibility to a client as established by the code of professional responsibility and the provisions of section 97-v of the State Finance Law, section 497 of the Judiciary Law and this Part; and

(4) prohibit discrimination, as defined by the applicable laws of the United States and

the State of New York, against (i) any person applying for employment or employed by the qualified recipient; or (ii) any person seeking participation in, or the benefits or proceeds of, a program or programs supported in whole or in part by IOLA funds.

(c) Recognizing that the IOLA funds available for distribution may not be sufficient to make distributions to all qualified recipients submitting applications for such funds which merit funding, the board of trustees shall from time to time establish funding priorities. Among the factors to be considered by the board of trustees in establishing the priorities shall be:

(1) if there are two or more qualified recipients in a geographical area who have applied for IOLA funding, the board shall distribute available funds annually based upon a determination by the board in its discretion of the merits of the applications of the qualified recipients and the impact that distribution to the qualified recipients will have on ensuring the delivery of stable, economical and high quality civil legal services to that area;

(2) absent special circumstances, qualified recipients shall have substantial sources of income used for the provision of civil legal services to the poor in addition to the funds requested;

(3) expansion and improvement of existing qualified recipients shall be preferred over requests to provide IOLA funding to establish new qualified recipients, except in instances of unique and difficult to serve areas and groups;

(4) requests shall be encouraged for applications for IOLA funds which will result in the development and strengthening of pro bono programs which generate the provision of substantial voluntary legal services to the poor;

(5) the level of professional standards and efficiency and quality of services;

(6) the provisions for client participation in program planning, priority setting and operation;

(7) provisions which prohibit attorneys employed full time in legal assistance activities supported all or in part by IOLA funds from engaging in any compensated outside practice of law;

(8) the encouragement of cooperative proposals from multiple qualified recipients in a given service area;

(9) the level of client and community support for the services for which IOLA funds are being sought;

(10) whether a qualified support and training provider applicant seeking IOLA funds to provide training and support services to qualified legal service providers has obtained the approval of a majority of the programs it seeks to assist; and

(11) qualified support and training provider applicants seeking IOLA funds to provide direct legal services either to groups of clients currently underserved by legal services or in areas of representation that cannot effectively be serviced by individual qualified legal services

providers shall demonstrate the need for such services.

7000.13 Use of funds.

(a) No IOLA funds distributed pursuant to section 97-v of the State Finance Law, section 497 of the Judiciary Law and this Part may be used for any of the following purposes:

(1) the provision of legal services with respect to any fee-generating case unless adequate representation is unavailable;

(i) for the purposes of this subparagraph, fee-generating case shall mean 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, from public funds, or from the opposing party;

(ii) other adequate representation is deemed unavailable if any one of the following factors are met:

(a) it has been determined that free referral is not possible for any of the following reasons:

(1) the case has been rejected by the local lawyer referral service or by two attorneys in private practice who have experience in the subject matter of the case;

(2) neither the referral service nor at least two attorneys in private practice who have experience in the subject matter of the case will consider the case without payment of a consultation fee;

(3) the case is of the type which attorneys in private practice in the area ordinarily do not accept without prepayment of a fee;

(4) emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with the code of professional responsibility, referral will be attempted at a later time;

(b) recovery of damages is not the principal object of the case and a request for damages is ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims;

(c) a court has appointed a qualified recipient or an attorney employed by a qualified recipient pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction;

(d) the case involves the rights of a claimant under a publicly supported benefit program for which entitlement to benefit is based on need.

(b) Criminal proceedings. No funds distributed pursuant to this Part shall be used for the provision of legal assistance with respect to any criminal proceeding or any action in the nature of habeas corpus collaterally attacking a criminal conviction.

(c) Prohibition on the use of funds for political purposes. No funds distributed pursuant to this Part shall be used either directly or indirectly to contribute to any political party or association, or any candidate for public or party office, and no political test or qualification shall be used in making any decision, taking any action, or performing any function under these regulations.

7000.14 Client financial eligibility for services.

(a) A person eligible to receive legal services from funds allocated pursuant to this Part must have an income that does not exceed 125 percent of the official poverty threshold as defined by the United States Office of Management and Budget, except in the following circumstances:

(1) the person is seeking legal assistance to secure benefits provided by a governmental program for the poor;

(2) the person would be eligible but for the receipt of benefits provided by a governmental income maintenance program; or

(3) the person's circumstances require that eligibility should be allowed on the basis of one or more of the factors set forth in subdivision (b) of this section.

(b) In addition to income, a recipient shall consider other relevant factors in determining whether a person is eligible to receive legal assistance. Factors to be considered shall include:

(1) current income, taking into account seasonal variations in income;

(2) liquid assets;

(3) fixed debts and obligations, including Federal and local taxes and medical expenses;

(4) child care, transportation, mandatory payroll deductions and other expenses necessary for employment;

(5) age or physical infirmity of resident family members;

(6) the cost of obtaining private legal representation with respect to the particular matter in which assistance is sought;

(7) the consequences for the individual if legal assistance is denied; and

(8) any other factors related to financial inability to afford legal assistance.

(c) A recipient may provide legal assistance to a group, corporation, or association if it:

(1) is primarily composed of persons eligible for legal assistance under these regulations; or

(2) has as its primary purpose the furtherance of the interests of persons in the community who are unable to afford legal assistance; and

(3) provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel.

(d) A recipient shall adopt a simple form and procedure to obtain information to determine eligibility in a manner that promotes the development of trust between attorney and client. If there is substantial reason to doubt the accuracy of the information, a recipient shall make appropriate inquiry to verify it in a manner consistent with the attorney-client relationship. Information furnished to a recipient by a client to establish financial eligibility shall not be disclosed to any person who is not employed by the recipient in a manner that permits identification of the client without the express written consent of the client.

(e) If an eligible client becomes ineligible due to a change in circumstances, a recipient shall discontinue representation if the change in circumstances is sufficiently likely to continue for a period which will enable the client to retain private legal assistance, and discontinuation is not inconsistent with the attorney's professional responsibility.

7000.15 Applications for grants and contracts.

(a) The board of trustees shall seek submissions of grant and contract applications on a regular and periodic basis, and distribute available IOLA funds, after the payment of administrative expenses, to qualified recipients pursuant to the provisions of this Part on the basis of the merits of the applicants. The board of trustees may delegate the screening of the funding applications to its staff or other entity it deems appropriate.

(b) All applicants seeking funds pursuant to this Part shall:

(1) submit a written grant proposal;

(2) respond adequately to the recommended grant proposal format and any additional requests for information;

(3) agree to carry out the program for which funds are requested, report on its progress and results, and return any funds not utilized in accordance with the grant;

(4) cooperate with all data collection and evaluation activities requested and submit annually an audited financial statement by a certified public accountant and a report of the programs on which the IOLA funds were expended.

(c) All grant and contract applications submitted to the board of trustees shall include the following information:

(1) community characteristics demonstrating the need for legal services and describing the affiliation with existing legal services providers, volunteer lawyer programs and local bar associations;

(2) organizational structure of the applicant, including policy board composition,

sources and amounts of other funding, planning and priority setting processes, and client and community input and support;

(3) description of the applicant, including community outreach, office and staffing patterns, staff qualifications, specialty units, client statistics, client screening, intake and referral procedures, systems of quality control (case assignment and review, supervision and follow-up training, technical assistance and other support), client grievance procedures and staff and program evaluation;

(4) description of the program for which IOLA funding is sought;

(5) program budget which sets forth the proposed use of the requested IOLA funds and a timetable and self-assessment plan to monitor the implementation and operation of the proposed program;

(6) the documentation to be provided by the applicants shall include: (i) tax-exempt status; (ii) latest audited financial statements; (iii) affirmative action policy; (iv) current professional liability coverage; and (v) approval of the proposal by the applicant's board of directors; and

(7) any other relevant information requested by the executive director.

7000.16 Processing applications.

Review and approval of the grant and contract applications shall be completed within three months of the date set for the submission of the funding application, and if the amount to be distributed differs from the funds requested, within 30 days after notification of such proposed distribution, each qualified recipient shall submit a modified budget and narrative explaining how the funds will be utilized.

7000.17 Payment of grants and contracts.

All payments from the IOLA fund shall be made by the State Comptroller upon certification and authorization of the trustees of the fund.

7000.18 Denial of grants and contracts.

(a) The board of trustees shall have the power to determine that an applicant for funding is not qualified to receive funding or is not the most meritorious of competing applicants, to deny or reduce future funding, or to terminate existing funding.

(b) In reaching a decision, the board of trustees shall take into consideration the amount of funds available for distribution, the continuity, competence and cost-effectiveness of the services provided, the provider's compliance with the terms and conditions of the grant and the requirements of these regulations, the standing of the recipient in the client community being served, the viability of an alternate provider of services and the disruption of services caused by a change in the identity of the provider. If a decision is made to terminate or deny refunding of a grant, the board of trustees may authorize temporary funding if necessary to enable a grant recipient to close or transfer current matters in a manner consistent with its professional responsibilities to its current clients. Where the board of trustees has funded an applicant for general operating support on a recurring basis, a decision to terminate funding or deny refunding will normally only be based on:

(1) a substantial failure to comply with the terms and conditions of the grant or the requirements and restrictions of these regulations;

(2) a substantial failure to use the grant to provide economical and effective legal assistance as measured by generally accepted professional standards and the provisions of these regulations; or

(3) a lack of sufficient funds available for distribution pursuant to these regulations.

(c) The provisions of subdivision (b) of this section shall not apply to any grant awards which the board of trustees designates, at the time such award is made, as onetime in nature.

7000.19 Advisory council.

The board of trustees may from time to time establish one or more advisory councils made up of representatives of qualified recipients and members of the private bar and communities serviced in order to assist in the promotion of IOLA accounts and to provide advice in the development and implementation of the programs initiated by this Part. The members of the advisory council will receive no compensation for their services but, in the discretion of the board, may be entitled to receive reimbursement for their actual and necessary expenses incurred in the discharge of their duties.

7000.20 Adoption and amendment of regulations.

New regulations may be adopted, and any regulation may be amended or repealed, by the trustees at any regular or special meeting, provided that notice of the proposed adoption, amendment or repeal has been given to all trustees at least seven days before the meeting and, provided further, that any amendment of a provision of this Part, which by its terms requires action by a special vote, shall become effective only if adopted by such special vote. In addition, any such regulation proposed by the board of trustees to be adopted, amended or repealed may be so adopted, amended or repealed only in accordance with Article 2 of the State Administrative Procedure Act. Copies of all regulations shall be made available to the public at all offices of the fund.

7000.21 Construction of regulations.

This Part shall be liberally construed to accomplish the objectives of the fund and the policies of the trustees.

7000.22 Fiscal year.

The fund's fiscal year shall begin April 1 and end March 31.