

IOLA Fund of the State of New York
Meeting of the Board of Trustees – New York, NY
December 17, 2024
DRAFT

Present: Chair Davis, Trustees Dunham, Galowitz, Madigan and Lindenauer

Public

Videoconference: Trustees Ross, Lopez-Soto and Villaverde

Staff: Fecko, Nyiendo, Agard and Fehringer

1. Call to Order.

The meeting was called to order by Chair Davis at approximately 4:24 p.m. Remarks by Chair Davis welcoming the Board to the meeting.

2. Approval of the minutes of the meeting of the Board of Trustees held on September 27, 2024 and the meeting of the Grants Committee of the Board of Trustees on December 10, 2024.

The minutes of the above meetings were reviewed.

Trustee Galowitz moved to approve the September 27, 2024 minutes of the Board, seconded by Trustee Lindenauer, and the Board approved the motion unanimously.

Trustee Ross moved to approve the December 11, 2024 minutes of the Grants Committee of the Board, seconded by Trustee Lopez-Soto, and the members of the Grants Committee (Chair Davis, Trustees Dunham, Galowitz, Lopez-Soto, and Villaverde) approved the motion unanimously.

3. Executive Report

Ms. Fecko advised that for the first time, IOLA will award five-year grants. These grants offer stability to the non-profit community and an opportunity to support increased immigration legal services, which the Board has recognized as an area of high need. The RFP was announced on September 18, 2024 to grant up to \$562,500,000. We received 108 applications. Final awards will be constrained by the applicant's monetary request and, further, Civil Legal Services (CLS) awards are additionally constrained by the funds available in each geographic unit based on the poverty population.

Ms. Fecko reported that the Grants Committee of the Board met on December 10. Prior to the meeting, Trustees disclosed their affiliations, to the extent any exist, with the applicants and a summary of the conflicts was circulated to the Board. Ms. Fecko thanked Ms. Nyiendo for overseeing the conflict disclosures. Ms. Fecko also thanked the Grants Team for developing the online portal that allowed Board members to have ease of access to the applications.

Ms. Fecko noted that grant awards are subject to IOLA's budget appropriations. IOLA submitted its formal response to DOB's FY 2026 call letter and has advocated for grant appropriations over the next five fiscal years in the total amount of \$600 million, which is in line with the Board's grantmaking plan. IOLA is also advocating for a modest increase to its administrative budget.

Ms. Fecko advised that the Office of Court Administration (OCA) also submitted its budget proposal. In their proposal, they are seeking \$150 million for civil legal services, which is an increase of \$45.5 million. Moreover, their budget did not include a transfer to IOLA of any funds, as it had done for over ten years. However, OCA included a statement of strong support for IOLA's proposed plan for a phased-in growth in grant awards.

Regarding the Permanent Commission on Access to Justice, Helaine Barnett has stepped down as the founding chair. She will remain on the Commission as Chair Emerita and continue to contribute to the extraordinary work. She will be replaced by three co-chairs.

Ms. Fecko advised that the lease for the IOLA Office ends November 30, 2025 and IOLA staff have begun renegotiating the terms, including renovations. Michele Agard will be managing this project.

Regarding the agency classification of IOLA, the NY State Commission on Legislative, Judicial and Executive Compensation issued a report a few weeks ago reclassifying certain agencies. DOB recently confirmed that IOLA has been reclassified from Tier D to a Tier C agency. Ms. Fecko advised that a resolution reflecting such reclassification and corresponding compensation structure has been prepared for the Board.

Trustee Lindenauer moved to approve the resolution reflecting DOB's reclassification of IOLA to a Tier C agency and compensation structure, which motion was seconded by Trustee Lopez-Soto, and approved unanimously.

4. Administrative and Financial Report

Ms. Agard provided an overview of the Administrative Report. Ms. Agard reported that the cash balance on October 1 was approximately \$523 million with interest earnings in the month of October of approximately \$18 million, and STIP revenue of approximately \$2.2 million. Minus administrative and grant expenses, the November 1 opening cash balance was approximately \$536 million.

Turning to the interest data, Ms. Agard reported that 129 banks reported in October with a net yield of 2.52%. The year-to-date interest revenue is approximately \$141.5 million. This is an increase of 4.52% in revenue from last year.

With respect to the Administrative Budget, Ms. Agard noted that the year-to-date expenditures were approximately \$1.1 million, which is less than half of the yearly budget allowance.

Ms. Agard gave an overview of the Delta Consulting banking report, noting that the collective average daily balance of IOLA accounts in the participating banks was just under \$8.6 billion, which is slightly below the twelve month average of \$8.8 billion. Ms. Agard noted that the Federal Reserve is scheduled to meet tomorrow, where it is expected that they will reduce interest rates by 25 basis points.

Ms. Fecko noted that the October interest revenue reflects some, but not all, of the recent reduction in the interest rate by the Federal Reserve as there is a lag between the announcement of a drop in rates and when the interest income will begin to drop. The revenue figures for next month and thereafter are more likely to reflect the recent drop in interest rates.

Ms. Agard advised that the net interest yield has remained fairly stable overall over the last year. Ms. Agard noted that the Board had been provided with charts in the Administrative Report detailing the collective average daily balances and interest revenue generated from the IOLA accounts in each of the participating banks.

5. General Counsel's Report

Ms. Nyiende advised that she participated in the review of the grant applications that were submitted by applicants in response to the recent RFP. She also solicited and received updates from Board members of their conflicts and circulated a summary list to the Board prior to the December 10 meeting of the Grants Committee and again prior to the December 17 Board meeting.

With respect to bar association matters, Ms. Nyiende advised that she attended the ABA Forum on Building Access to Justice from October 23-25 with Ms. Fecko in California. During the conference, Ms. Nyiende attended multiple panel discussions, and participated in an informal discussion led by Ms. Fecko on IOLA's Justice Infrastructure Project.

With respect to attorney engagement, Ms. Nyiende advised that she continues to field numerous calls and emails on a near daily basis from bankers, attorneys and other interested parties regarding the administration of IOLA accounts.

Regarding banking compliance, Ms. Nyiende advised that since the last Board meeting, the Compliance Team has identified two participating banks who reduced their rates without first seeking approval. Ms. Nyiende sent a letter to those banks reminding them of the pre-approval process and requested that they correct the bank's remittances accordingly. Ms. Nyiende also advised that she has sent letters to ten banks since the last Board meeting authorizing their

requests for a rate change. Moreover, two additional banks have been added to the IOLA program.

Regarding ethics matters, Ms. Nyiengo advised that anti-discrimination training for the staff will be conducted by the Office for Employee Relations (OER), and that the staff have each signed up to take the training on set dates between now and the end of the calendar year. Further, the staff is on track to complete the mandatory ethics training available over the SLMS platform by December 31. Ms. Nyiengo reminded the Board to complete the ethics training, as well.

Ms. Nyiengo advised that IOLA has received two requests for reimbursement of interest income from attorneys. Ms. Nyiengo advised that the relevant laws governing reimbursement requests are found in State Finance Law § 97-v, Judiciary Law § 497 and the NYCRR Part 7000. Ms. Nyiengo advised that she prepared a detailed recommendation for the Board regarding the two requests, which will be discussed in Executive Session.

6. Justice Infrastructure Project

Ms. Fecko provided an update on the Justice Infrastructure Project. She advised that the Vision document was recently updated. The changes essentially consist of making it more explicit that the goal of the Project is to improve legal services; and adding aspects of the creation, maintenance, and use of a Service Directory to both objectives. Moreover, a new document was created describing Phase II activities conducted to date. This document describes feedback received from stakeholders, namely strong support for a statewide support function and cautious optimism as well as many questions about the coordinated information and referral function.

Ms. Fecko advised that LS-NYC hosted a statewide intake conference recently, thanks to financial support from IOLA. Ms. Fecko and Mr. Steinkamp attended and gave a short presentation about the Justice Infrastructure Project and overview of intake improvements seen in other jurisdictions. This conference had approximately 140 participants both in-person and over video conference, and included many front line staff employees. This was encouraging as it reflects a clear appetite for improvement of intake and coordination among service providers.

Ms. Fecko advised that the remainder of Phase 2 of JIP will include convenings on both objectives. A convening on the state support function is set for January 16. A convening on information and referral is planned for either late March or early April. Ms. Fecko noted that she expects advisory committees to form thereafter. One or more RFPs for FY 2026 to advance the JIP objectives are anticipated thereafter. Lastly, Ms. Fecko briefly described the several reports that have been made available to the Board from Just Tech, which is leading the tech support efforts for our grantees.

7. Next Meeting

The Board discussed and confirmed its schedule for meetings in 2025. The next Board meeting is March 12, 2025 at 1pm to be held in the IOLA Fund offices. The Board will further meet on June 4, 2025 in Syracuse at 1pm at a location to be determined. The Board will meet again on September 17, 2025 at 1pm and December 3, 2025 at 1pm in the IOLA offices.

8. Executive Session

Chair Davis made a motion to enter into Executive Session to consider matters relating to the financial history and appointment of particular corporations, specifically IOLA grant applicants and grantees; the financial history of two individuals seeking reimbursement of interest; and potential litigation. The motion was seconded by Trustee Madigan and unanimously approved.

9. Vote on Resolutions

Upon reconvening in public session, Trustee Villaverde made a motion to adopt the recommendations of IOLA staff regarding grant recipients and awards for the RFP in the FY 26-30 cycle. The motion was seconded by Trustee Galowitz and unanimously approved. Trustee Villaverde requested that the list of grant recipients and award amounts be appended to the meeting minutes.

Chair Davis made a motion to grant the reimbursement request of attorney Daniel Weisz. The motion was seconded by Trustee Soto-Lopez and unanimously approved.

Chair Davis made a motion to deny the reimbursement request of the Hon. Anthony Marano (Ret.), acting in the capacity of court appointed Temporary Receiver of an Incapacitated Person. The motion was seconded by Trustee Galowitz and unanimously approved.

There being no further business before the Board, the meeting was adjourned at approximately 6:00 p.m.

Respectfully submitted,

Licha Nyiendo
General Counsel

Interest on Lawyer Account Fund of the State of New York

Funding civil legal assistance for low-income New Yorkers since 1984

CIVIL LEGAL SERVICES GRANTEE ORGANIZATIONS		FY26- FY30 Grant
1	Bronx Defenders, The	\$ 5,000,000.00
2	Brooklyn Defender Services	\$ 3,500,000.00
3	Brooklyn Legal Services Corp A	\$ 6,300,000.00
4	CAMBA, Inc.	\$ 11,150,000.00
5	Community Development Project, Inc. (D/B/A TakeRoot Justice)	\$ 3,093,518.00
6	Empire Justice Center	\$ 15,674,461.00
7	Frank H Hiscock Legal Aid Society	\$ 9,326,861.00
8	Hudson Valley Justice Center	\$ 4,000,000.00
9	Legal Aid Bureau of Buffalo, Inc.	\$ 4,634,462.00
10	Legal Aid Society (NYC), The	\$ 75,700,000.00
11	Legal Aid Society of Mid New York, Inc.	\$ 1,601,437.00
12	Legal Aid Society of Northeastern New York	\$ 28,390,000.00
13	Legal Aid Society of Rochester NY, Inc.	\$ 16,138,318.00
14	Legal Assistance of Western New York, Inc.	\$ 20,254,943.00
15	Legal Services NYC	\$ 75,700,000.00
16	Legal Services of Central New York, Inc.	\$ 14,655,000.00
17	Legal Services of Long Island	\$ 28,000,000.00
18	Legal Services of the Hudson Valley	\$ 35,437,500.00
19	Mobilization for Justice, Inc.	\$ 9,400,000.00
20	Neighborhood Defender Service, Inc.	\$ 3,500,000.00
21	Neighborhood Legal Services, Inc.	\$ 16,312,500.00
22	New York Legal Assistance Group, Inc.	\$ 32,480,000.00
23	Northern Manhattan Improvement Corp	\$ 16,800,000.00
24	Rural Law Center of New York	\$ 3,200,000.00
25	Urban Justice Center	\$ 7,000,000.00
26	Western New York Law Center, Inc.	\$ 2,751,000.00
Total for CLS		\$ 450,000,000.00

ADMINISTRATION OF JUSTICE GRANTEE ORGANIZATIONS		FY26- FY30 Grant
1	Access Justice Brooklyn, Inc. (F/K/A Brooklyn Bar Association VLP)	\$ 2,300,000.00
2	Advocates for Children of New York	\$ 1,500,000.00
3	African Communities Together	\$ 800,000.00
4	African Services Committee	\$ 800,000.00
5	Association of the Bar of the City of New York Fund, Inc. (D/B/A City Bar Justice Center)	\$ 6,000,000.00
6	Capital District Women's Bar Association Legal Project, Inc.	\$ 2,500,000.00
7	Catholic Charities Community Services of the Archdiocese of New York	\$ 3,750,000.00
8	Catholic Migration Services, Inc.	\$ 800,000.00
9	Center for Community Justice	\$ 800,000.00
10	Center for Elder Law and Justice, Inc.	\$ 5,200,000.00
11	Center for Family Representation, Inc.	\$ 1,100,000.00
12	Central American Legal Assistance	\$ 1,100,000.00
13	Central American Refugee Center	\$ 1,550,000.00
14	Child and Family Services of Erie County	\$ 800,000.00
15	Children's Law Center, The	\$ 1,200,000.00

16	Community Service Society of New York	\$ 1,100,000.00
17	Day One New York, Inc.	\$ 1,000,000.00
18	Disability Advocates Inc	\$ 1,300,000.00
19	Door-A Center for Alternatives, Inc., The	\$ 1,700,000.00
20	Erie County Bar Association Volunteer Lawyers Project	\$ 4,000,000.00
21	Family Center, Inc.	\$ 1,300,000.00
22	Family Legal Care (F/K/A LIFT)	\$ 2,000,000.00
23	Gay Mens Health Crisis	\$ 800,000.00
24	Goddard Riverside Community Center	\$ 1,000,000.00
25	Her Justice, Inc.	\$ 2,600,000.00
26	Hope's Door, Inc.	\$ 800,000.00
27	Housing Conservation Coordinators, Inc.	\$ 1,300,000.00
28	Immigrant Advocates Response Collaborative, Inc.	\$ 800,000.00
29	Immigration Equality, Inc.	\$ 800,000.00
30	Jewish Association for Services for the Aged	\$ 1,400,000.00
31	Journey's End Refugee Services	\$ 2,100,000.00
32	Just Cause (Volunteer Legal Services Project of Monroe County, Inc.)	\$ 3,500,000.00
33	KIND Inc	\$ 800,000.00
34	LatinoJustice PRLDEF	\$ 1,200,000.00
35	Lawyers Alliance for New York	\$ 1,700,000.00
36	Legal Action Center of the City of NY	\$ 1,300,000.00
37	Long Island Advocacy Center, Inc.	\$ 800,000.00
38	Make the Road New York	\$ 3,750,000.00
39	My Sisters Place, Inc.	\$ 900,000.00
40	National Center for Law & Economic Justice, Inc.	\$ 600,000.00
41	Neighbors Link Corporation	\$ 1,200,000.00
42	New Economy Project	\$ 1,800,000.00
43	New York County Lawyers Association	\$ 1,000,000.00
44	New York Immigration Coalition	\$ 1,100,000.00
45	New York Justice for Our Neighbors, Inc.	\$ 550,000.00
46	New York Lawyers for the Public Interest	\$ 3,700,000.00
47	New York State Dispute Resolution Association, Inc.	\$ 1,200,000.00
48	Part of the Solution, Inc.	\$ 900,000.00
49	Pro Bono Net, Inc.	\$ 8,000,000.00
50	Pro Bono Partnership, Inc.	\$ 1,200,000.00
51	RiseBoro Community Partnership Inc.	\$ 1,000,000.00
52	Safe Horizon, Inc.	\$ 3,000,000.00
53	Safe Passage Project Corporation	\$ 2,000,000.00
54	Sanctuary for Families	\$ 4,000,000.00
55	The Safe Center LI, Inc.	\$ 1,000,000.00
56	Unity House of Troy, Inc.	\$ 700,000.00
57	UnLocal, Inc.	\$ 700,000.00
58	Urban Resource Institute	\$ 800,000.00
59	Volunteer Lawyers Project of CNY, Inc.	\$ 3,500,000.00
60	Volunteers of Legal Services	\$ 2,000,000.00
61	Worker Justice Center of New York, Inc.	\$ 3,500,000.00
62	Youth Represent, Inc,	\$ 900,000.00
Total for AOJ		\$ 112,500,000.00

**MEETING OF THE BOARD OF TRUSTEES
OF THE IOLA FUND OF NEW YORK
December 17, 2024**

RESOLUTION

WHEREAS, Section 169 of New York Executive Law sets the salaries for commissioners, agency heads, and other specified positions;

WHEREAS, the New York State Commission on Legislative, Judicial and Executive Compensation (the "Commission"), established by Part E of Chapter 60 of the Laws of 2015, as amended, created four categories of commissioners and authorized the Executive, through the Division of Budget, to set forth a plan for classifying state entities into the four categories, referred to as Tiers A-D;

WHEREAS, the IOLA Fund previously was classified as Tier D, but was recently informed by the Division of Budget that, effective January 1, 2025, it had been re-classified as Tier C;

WHEREAS, the Commission released a report dated November 14, 2024, providing that the maximum salary under Tier C is \$200,000.

THEREFORE, BE IT RESOLVED that the Board of Trustees of the IOLA Fund of New York fixes the salary of the IOLA Fund Executive Director to be no less than \$200,000 with any future increases to result in a base salary no less than that of agency heads under Tier C of the Plan; and

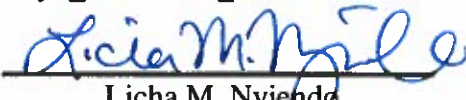
BE IT FURTHER RESOLVED that the Board of Trustees of the IOLA Fund of New York certifies and authorizes the New York State Comptroller to make salary payments from the IOLA Fund in accordance with the terms of this resolution.

Motion by: **Board Trustee Susan Lindenauer**

Seconded by: **Board Trustee Edwin Lopez-Soto**

Vote: Yea **X (8)** Nay **0** Abstain **0**

Vote Recorded by:


Licha M. Nyiendo
General Counsel

New York, New York
December 17, 2024

**MEETING OF THE BOARD OF TRUSTEES
OF THE IOLA FUND OF NEW YORK**

December 17, 2024

RESOLUTION

WHEREAS, under State Finance Law §97-v(5), the IOLA Board of Trustees is required to refund any moneys upon application of any aggrieved party if it shall appear to the satisfaction of the Board that, “because of 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 provision to be remitted[.]” State Finance Law §97-v(5).

WHEREAS, Daniel Weisz, Esq., submitted a written application detailing the facts of the case and providing supporting documents to the Board on September 27, 2024 and October 7, 2024, requesting reimbursement of \$2,156.81 of interest monies remitted from his IOLA account at a specified participating banking institution to the IOLA Fund for the time period of July through September 2024.

WHEREAS, an IOLA Fund internal database check verified the amount of \$2,156.81 as the interest remittance to the IOLA Fund from the applicant’s IOLA account for the relevant time period.

WHEREAS, the Board is satisfied, upon review of the application materials, State Finance Law §97-v(5) and other relevant laws, that reimbursement is required as applicant has demonstrated the interest was remitted to the IOLA Fund due to a mistake of fact.

THEREFORE, BE IT RESOLVED that, the Board of Trustees of the IOLA Fund of New York GRANTS the application for a refund of \$2,156.81.

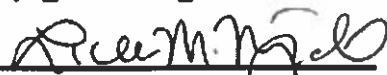
BE IT FURTHER RESOLVED that the Board of Trustees of the IOLA Fund of New York authorizes the IOLA Staff to take all actions consistent with this Resolution.

Motion by: **Board of Trustees Chair Mary Rothwell Davis**

Seconded by: **Board Trustee Edwin Lopez-Soto**

Vote: Yea **X (8)** Nay **0** Abstain **0**

Vote Recorded by:



Licha M. Nyiendo
General Counsel

New York, New York
December 17, 2024

**MEETING OF THE BOARD OF TRUSTEES
OF THE IOLA FUND OF NEW YORK
December 17, 2024**

RESOLUTION

WHEREAS, under State Finance Law §97-v(5), the IOLA Board of Trustees is required to refund any moneys upon application of any aggrieved party if it shall appear to the satisfaction of the Board that, “because of 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 provision to be remitted[.]” State Finance Law §97-v(5).

WHEREAS, the Hon. Anthony Marano (Ret.), acting in the capacity as court appointed Temporary Receiver of an Incapacitated Person, submitted a written application detailing the facts of the case and providing supporting documents to the Board on November 25, 2024 requesting reimbursement of \$567,088.85 of interest monies remitted from his IOLA account at a specified banking institution to the IOLA Fund from February 2023 through October 2024.

WHEREAS, an IOLA Fund internal database check verified the amount of \$567,088.85 as the interest remittance to the IOLA Fund from applicant’s IOLA account for the relevant time period.

WHEREAS, upon review of the application materials, State Finance Law §97-v(5) and other relevant laws, the Board finds that applicant has not demonstrated a basis cognizable under the law requiring reimbursement. Specifically, the Board finds the following:

- The New York Supreme Court issued an Order dated January 11, 2023 appointing applicant as Temporary Receiver of the business interests of an incapacitated person and directing him to deposit monies received by him relating to the Receivership into an IOLA account.
- The funds at issue were “qualified funds” under Judiciary Law § 497(2) and NYCCR § 7000.2(e), requiring applicant to deposit them into an IOLA account. The Board is not persuaded by any of applicant’s arguments otherwise as they are not supported by the law.
- The First Department held in Bazinet v. Kluge, 14 A.D.3d 324, 788 N.Y.S.2d 77 (1st Dept 2005) that regardless of the size of monies deposited in an IOLA account, they are still “qualified funds” absent a credible allegation of breach of a statute or regulation, or other legal provision. In accord with Bazinet, this Board finds that although the size of the monies at issue here is large, there nevertheless is no credible allegation of a breach of a statute or regulation or provision of the Receivership Order.

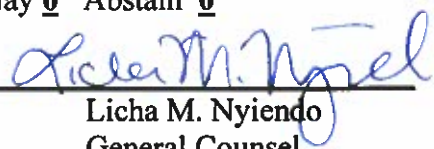
- New York’s statutory hold-harmless provision discourages second-guessing of an attorney’s good faith determination of what constitutes “qualified funds” by not only insulating attorneys from liability in damages but also from being held to answer for a charge of professional misconduct due to a deposit of moneys into an IOLA account. See Judiciary Law § 497(5); NYCCR § 7000.8(b). Here, there is no basis for a finding that either the court, in issuing the Order directing applicant to deposit the funds into any IOLA account, or the applicant, in following the court’s Order and depositing such funds, was acting in anything but good faith regarding their respective understanding of the nature of the funds.
- The Court’s November 25, 2024 Order granting applicant permission to make an application to the IOLA Fund for reimbursement does not state that there was any error in the court’s original Order directing applicant to utilize an IOLA account.
- In sum, applicant has not demonstrated that the remittance of monies to the IOLA Fund were due to a mistake of fact, error in calculation or erroneous interpretation of the provisions of State Finance Law § 97v-(5), Judiciary Law § 497 or the IOLA regulations, as required by State Finance Law § 97v-(5).

THEREFORE, BE IT RESOLVED that, the Board of Trustees of the IOLA Fund of New York has DENIED the application for a refund of \$567,088.85.

Motion by: **Board of Trustees Chair Mary Rothwell Davis**

Seconded by: **Board Trustee Paula Galowitz**

Vote: Yea **X (8)** Nay **0** Abstain **0**

Vote Recorded by: 
Licha M. Nyiendo
General Counsel

New York, New York
December 17, 2024