

STATE OF WEST VIRGINIA

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On October 6, 2025, at the Supreme Court of Appeals of West Virginia, the following order was made and entered:

RE: REQUEST FOR PUBLIC COMMENT ON AMENDMENTS TO RULES 10.11 AND 10.12 OF THE WEST VIRGINIA STATE BAR ADMINISTRATIVE RULES, No. 25-161

The West Virginia State Bar has proposed for the Court's consideration amendments to Administrative Rules 10.11 and 10.12 of the West Virginia State Bar Administrative Rules. The Court has jurisdiction to consider these amendments under Article VIII, §§ 1 and 3 of the West Virginia Constitution.

Upon consideration and review, the Court is of the opinion that the proposed amendments as submitted by the West Virginia State Bar be published for a period of public comment for thirty days. While the proposed amendments are being published for public comment, the Court takes no position at this time on the proposed amendments. At the conclusion of the public comment period, the Court will carefully consider the proposed amendments together with any comments received.

Comments may be filed in writing with the Office of the Clerk on or before November 5, 2025. Additions are indicated by underscoring, and deletions are indicated by strike-through.

WEST VIRGINIA STATE BAR ADMINISTRATIVE RULES

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Rule 10. Client Trust Accounts; IOLTA Program.

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~~10.11. Distribution of IOLTA funds by the West Virginia State Bar.~~

~~All IOLTA funds remitted to the West Virginia State Bar shall be distributed by that entity as follows:~~

~~(a) an annual fee not to exceed thirty thousand dollars shall be retained by the West Virginia State Bar, for administration of the fund, with a detailed annual accounting of services performed in consideration for such fee to be filed for public inspection with the Supreme Court of Appeals; and~~

~~(b) special grants not to exceed fifteen percent of the fund's annual receipts to WV CASA Network, coordinating agency for court-appointed special advocate programs, in the amount of 43.5 percent of special grant funds available; to the West Virginia Fund for Law in the Public Interest, Inc., in the amount of 19.3 percent of special grant funds available; to the Appalachian Center for Law and Public Service, in the amount of 7.72 percent of special grant funds available; to West Virginia Senior Legal Aid, Inc., in the amount of 24.125 percent of special grant funds available; and to Child Law Services of Mercer County 5.355 percent of special grant funds available; and~~

~~(c) Seventy five percent (75%) of the remaining funds to Legal Aid of West Virginia and twenty five percent (25%) of the remaining funds to Mountain State Justice or such other method of distribution as may hereinafter be adopted by order of the Supreme Court of Appeals. Any funds distributed by the West Virginia State Bar pursuant to this subdivision shall not be used by the recipient organization to support any lobbying activities.~~

10.11. IOLTA Advisory Committee Financial Assistance Protocol.

(a) A legal services organization or court-based program operating within the state for the purpose of providing legal or court-based services to the indigent, or otherwise underserved population, may apply for financial assistance from the IOLTA Advisory Committee through funds generated and collected by the procedures established by this rule to be used for the following three-year period.

(b) An application for financial assistance must be submitted to the office of the State Bar no later than September 1 of the calendar year preceding the first calendar year for which three years of financial assistance is requested.

(1) Upon formal request, the Committee may grant a grace period during which an organization may submit its application after the September 1 deadline.

(2) The decision to grant or deny such a grace period is within the sole discretion of the Committee and its decision shall be final.

(c) An application submitted under this Rule shall include:

(1) Evidence that clearly shows the applicant is incorporated in this state as a nonprofit organization. Such evidence shall include official documentation indicating the applicant is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code, and official documentation indicating the applicant is properly registered and currently compliant with the West Virginia Secretary of State's rules for charitable organizations;

(2) The general contact information of the organization, such as the address and phone number of the central office, as well as the organization's website;

(3) A list containing the names of the officers and board members, as well as contact information for the same;

(4) The proposed budget of the applicant for the following year;

(5) A general financial disclosure consisting of the previous year's costs associated with operations and services provide, and if applicable, where an applicant conducted or was subject to an audit of its previous year's activities, the audit shall be included with the application;

(6) A description of the services to be provided and to whom such services are expected to be provided;

(7) A detailed description of the region(s) and counties to which the applicant's services will be made available;

(8) A projection of the number of people to be served by the applicant throughout the following year;

(9) A summary of other sources of the applicant's funding; and

(10) A specific description of any services, programs, training, and legal technical assistance to be rendered by the applicant or by another person pursuant to a contract with the applicant, including but not limited to, by private attorneys or through reduced fee plans, pro bono programs, and mediation programs.

(d) The Committee shall review submitted applications during its third quarter (September) meeting to determine which applicants are eligible for financial assistance. From the pool of qualified applicants, the Committee shall determine which of the applicants, if any, are to receive funds and in what amount.

(e) An organization that receives financial assistance under this rule shall:

(1) Submit quarterly reports to the Committee that provide general information as to the operations and financial status of that organization. These reports may be submitted in writing or via telephone or video conference.

(2) File an annual written report with the Committee detailing the number and types of cases handled, the amount and types of legal training provided, and other legal services provided by way of that financial assistance. Where it deems appropriate, the Committee may request an organization's director to provide a formal presentation in conjunction with the annual report.

(3) Quarterly and annual reports shall not contain any information that identifies or enables the identification of any person to whom the organization provided legal services.

(f) An organization that receives financial assistance under this rule shall ensure:

(1) That all legal services provided are of a quality value and up to professional standards;

(2) That any attorney funded entirely or in part under this rule is able to carry out professional responsibilities to clients free from interference from other persons, entities, or groups;

(3) That the expenditure of the funds granted are limited to the services prescribed in the approved application, and those costs reasonably associated therewith; and

(4) The preservation of client confidentiality.

(g) The Committee has the right, upon learning a grantee organization has failed, or may be failing, to uphold professional standards in its operations, to:

(1) Require the organization's director, officers, and board members to come before the Committee;

(2) Reduce the organization's funding under this rule;

(3) Remove the organization as a grantee and bar further financial assistance under this rule;

(4) Bar the organization temporarily or permanently from reapplying for future financial assistance under this rule; and

(5) Pursue other corrective actions that are reasonable based on the conduct of the organization.

(6) Factors to be examined by the Committee in making its decision include but are not limited to the level of culpability involved in the misconduct, the length of time over which the misconduct took place, the organization's own corrective measures, the organization's monitoring process, and the organization's self-reporting of the misconduct.

(h) At the end of the three-year period, an organization that received financial assistance during the period may reapply for assistance for the next period. The merits of any and all applications receive, whether from new or reapplying organizations, will be reviewed anew by the Committee, utilizing the same standards for each organization.

10.12. Distribution of IOLTA funds by the West Virginia State Bar.

All IOLTA funds remitted to the West Virginia State Bar shall be distributed as follows:

(a) An annual fee, not to exceed thirty thousand dollars shall be retained by the West Virginia State Bar for administration of the fund, with a detailed accounting of services performed in consideration for such fee to be filed for public inspection with the Supreme Court of Appeals; and

(b) The West Virginia State Bar shall distribute to grantees such funds as determined by the IOLTA Advisory Committee, apportioned over the grant period and paid by the State Bar on a quarterly basis.

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A True Copy

Attest: /s/ C. Casey Forbes
Clerk of Court

