

## **MICHIGAN STATE BAR FOUNDATION ACCESS TO JUSTICE FUND GUIDELINES**

These Access To Justice Fund Guidelines establish direction for the management of the Access to Justice Fund (ATJ Fund) by the Michigan State Bar Foundation (Foundation). The ATJ Fund receives charitable contributions for the purpose of supporting civil legal aid for the poor in Michigan. Gifts are raised for the ATJ Fund through the ATJ Campaign, which was established in 1997 through a partnership of the State Bar of Michigan, the Michigan State Bar Foundation, and Michigan's legal aid providers. Resolutions have been previously adopted by the Foundation authorizing the Foundation to establish and administer the ATJ Fund.

### **I. Investment Assets of the ATJ Fund**

The investment assets of the Foundation shall include the cash, securities and property of the ATJ Fund.

The investment assets of the ATJ Fund shall be divided into two portfolios:

- 1) the **ATJ Fund Endowment Portfolio** shall consist of net receipts and earnings from contributions to the ATJ Fund endowment, less any expenses of, or distributions from, the ATJ Fund endowment; and
- 2) the **ATJ Fund Operations Portfolio** shall consist of all other assets of the ATJ Fund.

### **II. Access to Justice Fund Administrative Guidelines**

The following guidelines shall apply to the raising and receipt of Access to Justice Funds, the management and investment of the funds, and the distribution of the funds.

#### **A. Receipt of Funds**

1. The Michigan State Bar Foundation shall receive funds contributed to the Access to Justice Fund to support civil legal services to low-income persons in Michigan.
2. The Access to Justice Fund will include an endowment portfolio and a current operations portfolio, according to the intent expressed by the donor at the time of contribution of the funds, consistent with these guidelines.
3. In coordination with the Access to Justice Campaign, the Foundation may establish policies and procedures to facilitate receipt of planned gifts to the Access to Justice Fund.

4. The Foundation staff will effect procedures to facilitate an accounting and administrative relationship with the Capital Region Community Foundation regarding ATJ Fund endowment funds maintained by CRCF.
5. The Foundation has the right to accept or reject any gift.
6. For any solicitation permitting designation of gifts for a particular recipient, if the designated recipient ceases to exist or operate as a non-profit entity, the entire principal and earnings for that designated recipient shall revert to the appropriate ATJ Fund endowment or operations fund at the Foundation, as determined by the Foundation.
7. The Board of Trustees of the Foundation will strive to honor a donor's charitable intent, unless in their sole judgment that intent becomes unnecessary, incapable of fulfillment or inconsistent with the purpose of the Access to Justice Fund.
8. Unless otherwise indicated by the donor, by submitting a gift the donor is deemed to have consented to the use of donor's name in reports or donor recognition materials.
9. All solicitations for funds shall disclose that all pledges, contributions and planned gifts to the ATJ Fund shall be managed pursuant to these ATJ Fund Guidelines, as adopted by the Foundation or as amended from time to time. If it deems necessary, the Foundation may require other disclosures for materials or messages related to the ATJ Fund.

**B. Management and Investment of Funds**

1. Upon receipt of Access to Justice Fund contributions, the Foundation shall manage the process for receipts, accounting, and investment of those assets. All ATJ Fund funds maintained by the Foundation may be pooled for investment purposes.
2. The Foundation may determine the disposition of all non-cash gifts. Any stock received as a gift may be held, and sold at the discretion of the investment manager, consistent with the current ATJ Fund Investment Guidelines.
3. The Foundation will invest the contributions received in accordance with policies and procedures it promulgates.
  - a. Endowment contributions shall be placed in the Access to Justice Fund Endowment Portfolio.
  - b. Operations contributions and any payouts from the ATJ Fund Endowment Portfolio and any payouts from the Capital Region

Community Foundation shall be placed in the Access to Justice Fund Operations Portfolio.

- c. Gifts or pledges to the ATJ Fund received without a clear or complete communication of intent, as determined by the Foundation, shall be handled as follows:
  - 1) Undesignated gifts or pledges will be treated as undesignated endowment contributions to the ATJ Fund of the Foundation.
  - 2) Designated gifts or pledges will be handled as follows:
    - a) Those designated for an eligible program which do not contain a clear or complete designation either to endowment or operations will be treated as designated ATJ Fund endowment contributions to the Foundation for the designee if the designee has elected to establish an endowment fund; otherwise, if the designee has not elected to establish an endowment fund, such gifts will be placed in that designee's operations fund.
    - b) Those designated for endowment but naming an eligible program which has not elected to establish an endowment will be treated as an undesignated ATJ Fund endowment contribution to either the Foundation or CRCF, as appropriate, if reasonable efforts to clarify the donor's intent have failed as of 90 days after receipt of the gift.
4. All endowment funds designated for a particular designee are considered part of the general ATJ Fund endowment unless an endowment fund is established at the Foundation for that designee. A designated endowment will be established at the Foundation for a designee upon accumulation of at least \$25,000 in endowment gifts designated for that particular designee (and its predecessors) within a 7-year rolling time frame, and upon the consent of the designee. Until a designated endowment fund is established, designated gifts and contributions will not accrue earnings, appreciation, or depreciation. Upon establishment of the designated endowment, the following will occur:
  - a. Any endowment gifts designated for that particular designee during the 7-year period prior to the establishment of the endowment fund will be allocated to the designated endowment fund, without any interest or earnings.

- b. The Foundation may extend the 7-year period in paragraphs II.B.4 and II.B.4.a above to a 10-year rolling period in extraordinary circumstances upon request of the designee.
  - c. To the extent that endowment funds are available at the Foundation, all restricted endowment funds will be recorded and maintained from funds at the Foundation rather than from funds placed with the Capital Region Community Foundation, leaving all CRCF funds as unrestricted endowment funds.
  - d. Earnings, appreciation, and depreciation on designated and undesignated funds will accrue on a pooled basis, with total earnings, appreciation, and depreciation on total CRCF and Foundation endowment funds applying on a pro rata basis to restricted and unrestricted endowment funds.
- 5. Any ATJ Fund endowment donation designated for a particular designee shall be pooled with the general ATJ Fund Endowment for investment purposes, with accounting for any pro rata share of earnings and costs to which a designee may be entitled under these policies, as allocated pursuant to methods determined by the Foundation.
  - 6. If a designated organization ceases to exist or operate as a non-profit entity, the entire principal and earnings for that designee shall revert to the appropriate ATJ Fund endowment or operations fund at the Foundation, as determined by the Foundation.

**C. Distribution of Funds**

- 1. Distributions shall be guided by programmatic decisions of the Michigan State Bar Foundation and by donor instructions consistent with these guidelines.
  - a. Net available funds the Foundation distributes from undesignated ATJ Fund endowment or operations funds will be targeted up to 80% to support major civil legal aid providers throughout the state and up to 20% to support civil legal aid to the poor services by other nonprofit agencies or for special projects to assist civil legal aid for the poor in Michigan. Such distributions may be made through a periodic grants process, with determination of which agencies and services are eligible for such distributions to be decided by the Foundation. The Foundation will consult the State Bar of Michigan and other ATJ Campaign partners on the criteria and process the Foundation will use for these distributions.
- 2. Payouts from the ATJ Fund Endowment Portfolio shall be made in accordance with the spending policy of the *Investment Policy Statement, Access to Justice Fund Endowment Portfolio*. Such funds, as needed,

shall be disbursed to the ATJ Fund Operations Portfolio, from which final distribution will take place.

3. Contributions, receipts, and earnings of the ATJ Fund Operations Portfolio shall be distributed as follows:
  - a. Contributions designated as operations funds for a particular qualifying organization shall be distributed to that organization at least quarterly. In view of the frequency of payout and administrative costs, no interest or earnings will be paid nor costs assessed on designated operations funds distributed by the Foundation.
  - b. Contributions designated as operations fund contributions, payouts from the ATJ Fund Endowment Portfolio, payouts from the Capital Region Community Foundation fund (other than endowment pledges), and any earnings or income on the ATJ Fund Operations Portfolio shall be used or distributed as follows:
    - 1) For expenses of administration incurred by the Foundation in administering the Access to Justice Fund;
    - 2) For maintenance of sufficient funds for cash flow needs in administering the Access to Justice Fund.
    - 3) To qualified legal services providers and other recipients selected by the Foundation through its grants and evaluation process for grants supporting civil legal services for low-income persons, consistent with C.1.a. above.
    - 4) Funds not used for the above purposes may be placed in the ATJ Fund Endowment Portfolio at the discretion of the Foundation Board of Trustees.
4. Payout policies for established designated endowment funds will be the same as for undesignated endowment funds, consistent with the ATJ Fund Endowment Portfolio investment policies then in effect.

**D. Accountability for ATJ Funds**

1. The Foundation will require that all recipients of Access to Justice Fund distributions participate in the appropriate reporting and evaluation programs established by the Foundation, and will be subject to any grant conditions or other requirements established by the Foundation Board of Trustees.

2. The Foundation will report annually on the income and distributions of the Access to Justice Fund.
3. The ATJ Fund will be audited with the other Foundation funds on an annual basis as part of the Foundation's annual audit.

**E. External Investment Manager and Investment Guidelines**

1. The Foundation retains an external investment manager and provides a statement of responsibilities of the manager and investment direction for each fund the Foundation maintains with that manager. These policies are made part of the agreement with the investment manager.
2. Guidelines accepted by the Foundation for use by the investment manager in investing the ATJ Fund are made part of the investment policy statements of the Access to Justice Fund Endowment and Operations Portfolios, communicated in writing to the investment manager.

**F. Modification**

These policies may be modified by the Board of Trustees of the Foundation.

Original Adopted by the Board of Trustees September 16, 1998

Revisions Adopted by the Board of Trustees on March 21, 2001, February 16, 2005, June 15, 2005, and November 14, 2007