

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 to support 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.

Beginning July 1, 2018, the Foundation began seeking statewide contributions according to the ATJ Campaign Policies. Unless otherwise specified in these policies, these statewide contributions for operations will be paid to legal aid programs according to a distribution policy ("Distribution Policy") adopted by the Michigan State Bar Foundation Board ("Board") or as otherwise specified by the Board.

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 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, including cy pres awards [and planned gifts](#), specifically directed to the ATJ Fund or ATJ Campaign, 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 maintain 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. 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:
 - A) Undesignated gifts or pledges will be treated as undesignated operations contributions to the ATJ Fund of the Foundation.
 - B) Although the ATJ Campaign will not be seeking designated donations, when a donor chooses to designate, the gift or pledge will be handled as follows:
 - 1) Gifts 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 operations contributions to the Foundation for the designee.
 - 2) Gifts designated for endowment but naming an eligible program which has not elected or which does not elect 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.
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.

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 Foundation or its 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 shall be placed in the Access to Justice Fund Operations Portfolio.
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 may be established at the Foundation for a designee upon approval of the Foundation 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 prior to the establishment of the endowment fund will be allocated to the designated endowment fund, without any interest or earnings.
 - b. 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.
 - c. Any ATJ Fund endowment donation designated for a particular designee may be pooled with the general ATJ Fund Endowment for investment purposes. 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, as allocated pursuant to methods determined by the Foundation.

5. If a legal aid program with an established endowment or for whom gifts have been designated ceases to exist or operate as a charitable entity, the entire principal and earnings for that designated legal aid program shall revert to the appropriate ATJ Fund endowment or operations fund at the Foundation, as determined by the Foundation.
6. If a legal aid program with an established endowment for whom gifts have been designated no longer meets the obligations outlined in their executed ATJ Fund Assurance form or the ATJ Fund Guidelines (subject to change from time to time), the entire principal and earnings for that designated legal aid program 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.
2. Operations contributions to the ATJ Fund shall be distributed as follows:
 - a. Net available funds the Foundation distributes from undesignated ATJ Fund operations, including a maximum of \$500,000 in unique gifts, cy pres awards and planned gifts realized upon the death of the donor, received during the calendar year, will be distributed according to the Distribution Policy adopted by the Board. Such distributions may be made through a periodic distribution process pursuant to the distribution policy without the need for additional approval of each distribution.
 - b. Contributions designated as operations funds for a particular qualifying organization shall be distributed to that organization at least quarterly.
 - c. The Foundation Board will make a determination regarding the use and distribution of unique gifts, cy pres awards and planned gifts realized upon the death of the donor, received that are specifically directed to the ATJ Campaign in excess of \$500,000 in a calendar year.

- d. In view of the frequency of payout and administrative costs, no interest or earnings will be paid, nor costs assessed on designated or undesignated operations funds distributed by the Foundation.
3. Net available funds the Foundation distributes from earnings and distributions on ATJ Fund endowment funds will be distributed as follows or as otherwise determined by the Board from time to time:
- a. Payouts from the ATJ Fund Endowment Portfolio for designated and undesignated endowment distributions shall be made in accordance with the spending policy of the *Investment Policy Statement, Access to Justice Fund Endowment Portfolio* then in effect.
 - b. 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 make payment no more frequently than annually to legal aid providers for whom a designated endowment has been established upon the election of the provider to receive such distribution;
 - 4) 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 by charitable agencies or for special projects to assist civil legal aid for the poor in Michigan; and
 - 5) Funds not used for the above purposes may be placed in the ATJ Fund Endowment Portfolio at the discretion of the Foundation.

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.
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 Portfolio, 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, November 14, 2007, June 19, 2013, November 15, 2017 and June 17, 2020.