

LAWYER REFERRAL AND INFORMATION SERVICE
INDIGENT DEFENSE ADMINISTRATION AND
DEPENDENCY REPRESENTATION PROGRAM
FEE AUDIT PROGRAM AND PROCEDURES

I. PURPOSE

The Bar Association of San Francisco (BASF) Lawyer Referral and Information Service (LRIS), through its Indigent Defense Administration (“IDA”) and Dependency Representation Program (“DRP”), administers a Fee Audit Program (“Program”) that reviews certain applications for payment of fees from attorneys appointed by the San Francisco Superior Court, in order to help ensure compliance with court-mandated billing policies and procedures. This audit program is not intended as a substitute for the judges’ own independent review of the payment of fees.

II. AUDIT COMMITTEES

The BASF/LRIS has established criminal, juvenile delinquency and juvenile dependency Fee Audit Committees (“Committees”) to review criminal, juvenile delinquency and juvenile dependency fee applications. Each Committee shall be comprised of up to eight attorneys, the majority of whom shall be current or former members of the respective Court-appointment panel, and may include a member from the LRIS Committee. Members of each Committee shall be appointed by the chair of the LRIS. Each Committee shall appoint one of its members to coordinate review and investigation of the fee application and facilitate communication with the IDA and DRP programs.

III. AUDIT TRIGGERS

Applications for payment of attorneys’ fees by conflicts panel members will be subject to review by the Committee under this Program for a period not to exceed one year when any of the following occur:

- A. The panel member’s conflicts compensation exceeded \$50,000 in any six-month period;
- B. The panel member’s average compensation per case exceeded 120% of the average compensation per case of all other panel attorneys in any six-month period;
- C. Questions are raised about a billing practice or specific billing statement of a panel member;
- D. The panel member’s application is randomly selected.

IV. AUDIT REQUEST

When an IDA or DRP Administrator finds cause to consider a reduction in an application for payment of fees, and the panel member disputes the recommended adjustment, the IDA or DRP Administrator shall first attempt to negotiate a resolution to the issue. Failing that, the IDA or DRP Administrator shall submit the application to the appropriate Committee for a review of the circumstances surrounding the proposed reduction.

V. CONFLICT OF INTEREST

A member of a Committee shall recuse himself or herself from any and all participation in the consideration of a panel member’s application for attorneys’ fees in conflicts cases, or from attempting to influence others with respect to such consideration, in the following circumstances:

- A. He or she is the current or former law partner or associate of the panel member;
- B. He or she, or the law firm or office with which he or she is affiliated, represents the panel member;
- C. He or she, or the law firm or office with which he or she is affiliated, is a party to pending litigation in which the panel member, or the law firm or office with which the panel member is affiliated, is also a party or represents a party to that litigation;
- D. He or she, or the law firm or office with which he or she is affiliated, represents a party in pending litigation in which the panel member, or the law firm or office with which the panel member is affiliated, is a party;
- E. He or she or his or her spouse is related to the panel member by consanguinity or affinity within the third degree according to the rules of civil law;
- F. He or she stands in the relation of guardian and ward, conservator and conservatee, employer and employee, or principal and agent to a panel member;
- G. He or she has appeared as an expert witness or acted as a consultant or has been consulted with reference to an actual or threatened lawsuit against the panel member for malpractice;
- H. He or she has any personal bias or prejudice concerning the panel member which would prevent him or her from fairly evaluating all of the evidence concerning that panel member;
- I. He or she represents or represented one party in the matter for which the request for compensation is being reviewed where the panel member to be audited represents or represented another party.

A Committee member who represents one party to a pending legal matter where the panel member to be audited represents another party in the matter may recuse himself or herself, or be recused in the discretion of the Chair of the LRIS Committee.

In the event that a member of a Committee does not voluntarily recuse himself or herself, the Chair of the LRIS Committee shall, upon becoming aware of factors which may indicate a potential conflict of interest as described above, initiate an inquiry and make a determination as to whether or not such member should be disqualified. Any resulting determination in that regard shall be binding.

VI. CONFIDENTIALITY

All references, communications, reference forms, and information gathered pertaining to a conflicts panel member during the Fee Audit shall be the property of the LRIS and are to be treated as confidential. Votes of the Committee shall be confidential. Members of a Committee shall not disclose to others in any manner, except for the purposes of confidential inquiry during the course of consideration of any Fee Audit, the name of the panel member audited, the discussions, deliberations or action of a Committee concerning any panel member's fee audit, information obtained during investigation or deliberation of a Committee, or any documents relating to the foregoing, unless ordered to do so by a court of competent jurisdiction.

VII. INVESTIGATION

Each Committee, or its designee, which may include the IDA and/or DRP, shall conduct a review and investigation to determine whether the application for fees conforms to the Court's billing guidelines and is otherwise accurate, proper and reasonable. The investigation may include review of other applications for payment of attorneys' fees submitted by other panel members in the same or similar cases, a review of court files, review of records of detention facilities, and/or interviews of panel members including the panel member whose application for payment of attorneys' fees is

being reviewed. The Committee endeavors to render its preliminary recommendation to the BASF within 21 business days.

No provision of this section shall be construed as permitting disclosure to the panel member of information from which the panel member may infer the source, and no information shall either be disclosed to the panel member or be obtained by any process which would jeopardize the confidentiality of communications for persons whose opinions have been sought in the investigation.

VIII. DETERMINATION

In the event that a Committee determines as a result of its review and investigation that an application for fees does not comply with the court's billing guidelines or is not otherwise accurate, proper or reasonable, LRIS staff shall so notify the panel member in writing, specifying the reasons therefore. The panel member may provide a written response within 10 business days to the LRIS, which will be forwarded to the Committee. After reviewing the panel member's response, the Committee has 10 business days to render a final recommendation. The Committee may make a recommendation to the court regarding any adjustment in the fee application it deems appropriate. A copy of such recommendation shall be given to the panel member. The decision of a Committee as to whether or not to make a recommendation to the court shall be final. There shall be no right of review or appeal by the panel member. A recommendation by the Fee Audit Committee that an application for payment of fees should be reduced does not necessarily constitute a finding of wrongdoing.

In the event that a Committee makes a determination that an application for payment of fees does not comply with the court's billing guidelines or is not otherwise accurate or proper, that determination may also be communicated to the IDA and/or DRP Administrators.

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