

# **SAN FRANCISCO-MARIN LAWYER REFERRAL AND INFORMATION SERVICE RULES**

## **RULE 1 - PURPOSES**

The purposes of the San Francisco-Marín Lawyer Referral and Information Service are:

1. To educate as many people as possible about their legal rights.
2. To give as many people as possible access to affordable, competent legal representation.
3. To study cultural trends and investigate current social and political realities, in order to identify those most in need of access to our system of justice.
4. To modify and expand our capabilities and services in order to accomplish the above.

## **RULE 2 - ADMINISTRATION OF THE SERVICE**

- A. The San Francisco-Marín Lawyer Referral and Information Service, hereinafter referred to as the "Service," shall be operated under The Bar Association of San Francisco Service Rules, hereinafter referred to as "Rules," approved by and as a public service of The Bar Association of San Francisco, hereinafter referred to as the "Bar Association." The Service shall be administered by a San Francisco-Marín Lawyer Referral and Information Service Committee, hereinafter referred to as the "Committee," the members of which shall be appointed by the President of the Bar Association for a term of up to four (4) years. When a member has provided extraordinary service, the Chair of the Committee shall have the discretion to recommend to the President of the Bar Association that such member's term be extended for a finite number of years. The number of Committee members shall be seventeen (17) in addition to the Chairperson of the Committee. At least five (5) shall be members of the Barristers Club of the Bar Association at the time of their appointment. At all times, a majority of the Committee members shall be active or former panel members. At least fifty per cent of the Committee shall be active members of the State Bar of California, and at least fifty per cent shall not receive referrals from the Service during their tenure on the Committee.
- B. A quorum, of seven (7) or more members, shall be present in order to conduct all business. Three (3) consecutive unexcused absences may result in removal from the Committee.
- C. The Committee shall have the responsibility of regularly reviewing these Rules and making such changes and additions hereto as may, from time to time, be deemed

appropriate to carry out the purposes set forth above, but in no event less than once every five (5) years.

- D. The Bar Association and the Committee have the absolute discretion, right and power to grant or deny any applicant's or panel member's application for membership on any panel, to renew or not renew any panel member's application for renewal of membership on any panel, to limit the participation of any panel member on any panel, or to remove any panel member from any panel. No finding of professional misconduct or other wrongdoing is necessary for, or is to be implied from, any action by the Service which results in the suspension of referrals or removal from or non-renewal of panel membership.
- E. The Committee shall establish a Qualifications Subcommittee consisting of no less than 5 members of the Committee. The Chair of the Committee shall designate those members who collectively have expertise in a variety of civil practice areas and criminal and juvenile law. The purpose of the Qualifications Subcommittee is to evaluate the experience and suitability of applicants seeking membership or renewal with the Service, most particularly those who seek admission to the Service by way of substantial equivalent experience.
- F. On an annual basis, the Committee Chair shall designate members of the Committee to serve on the Budget Subcommittee for the Service to prepare and recommend the annual budget for the coming year. The members of the Budget Subcommittee shall meet with the Director and appropriate staff to review draft budgets and recommend changes. The Budget Subcommittee will present the finalized budget to the full Committee for approval.
- G. The Committee shall supervise the finances of the Service and annually shall approve the budget for the Service for the succeeding calendar year. The Directors of the Service will communicate the decision of the Committee to the Executive Director and Chief Financial Officer of the Bar Association.

### **RULE 3 - ESTABLISHMENT OF PANELS**

- A. The Service shall provide potential client referrals to lawyers organized into area of practice panels. The Committee may establish requirements for qualification to such panels for those areas of the law that it deems necessary.
- B. A majority vote of the Committee shall be necessary to adopt panel requirements.
- C. The Service shall maintain Experience Panels that represent a variety of areas of the law, including civil litigation and transactional areas of the law, criminal and juvenile law. Panels may be added or dissolved by the Service in order to meet the changing needs of the public it serves.

- D. There shall be a General Law Panel, which may be divided into as many subpanels as the Committee determines to be appropriate, one of which shall be the Unclassified Subpanel. There shall be no experience qualifications for the General Panel.
- E. The requirements for each Experience Panel shall be reviewed periodically by the Committee but in no event less than once every five (5) years.

#### **RULE 4 –MEMBERSHIP AND ELIGIBILITY**

- A. Each panel member must:
  - 1. Be an active member of The State Bar of California in good standing and must have a San Francisco or Marin County law office address; and agrees to list the San Francisco and/or Marin office on all web pages, court pleadings, business cards and stationary, and agrees as well to list the area of practice for which you have been approved in the LRIS on your website.
  - 2. Agree in writing to abide by the Rules of the Service;
  - 3. Be available to receive mail, accept service and meet with clients in the City and County of San Francisco at a designated office space during regular business hours. Court-appointment panel members may not be a member of any other Court-appointment panel with similar requirements and must list any other Court-appointment panels to which they belong.
  - 4. Agree in writing to all provisions of the Attorney's Application and Agreement;
  - 5. Maintain a policy of errors and omissions insurance in an amount no less than \$100,000.00 for each occurrence and \$300,000.00 aggregate per year.
  - 6. Within 10 days notify the Service of any referral for or finding of discipline by the State Bar of California, or like federal or state disciplinary entity in any state, or that any complaint criminal in nature has been filed anywhere against applicant. This obligation includes any referrals for or findings of past discipline. The obligation to notify the Service is ongoing.
- B. Applicants to an experience panel must be attorney-of-record and have done a substantial amount of work on each case listed in the application. Jury trials count only after submission to jury. If the applicant's experience is outside of California, the applicant must state how and why the experience is equivalent to the stated requirements. If the applicant cannot meet the stated requirements for panel membership but believes that s/he may qualify by reason of substantial equivalent experience, such experience shall be described in detail and attached to the application.
- C. Any applicant may be refused membership on the Service upon failure to meet any one or more of the requirements herein set forth. Any applicant may be refused membership on the Service if, upon a recommendation from the Director, the Qualifications Subcommittee finds good cause for the refusal. Any applicant may be refused membership on an experience panel based on an order of, or following a request by, the Court.
- D. Except for applications to Court-appointment panels, each application shall be acted upon within one hundred and twenty (120) days of submission unless time is extended with the applicant's consent. Applications for Court-appointment panels shall be acted

upon within a reasonable time, allowing for educational or other requirements specific to the Court-appointment panels.

- E. Rejected applicants must be advised in writing of the grounds for the rejection.

### **RULE 5 - APPLICATION REQUIREMENTS**

- A. Membership on the Service shall be by annual written application only, submitted on the form approved by the Committee. In addition to such requirements as the Committee shall deem necessary for the purpose of showing current general eligibility, the panel member shall be required to show continued compliance with the current applicable qualifications for each experience panel.
- B. Failure to provide verifiable and accurate information on the application(s) may result in a disqualification of the applicant for panel membership.
- C. Each applicant shall also remit the annual membership fee with the completed application. The amount shall be established by the Committee on a fiscal-year basis, July 1 to June 30. After January 1 of each year, any person joining shall pay one-half of the annual membership fee for the balance of that fiscal year.
- D. Each applicant shall agree to remit the surcharge on contingent fees and Court/board approved fees as in state workers' compensation cases and probate cases (excepting extraordinary fees awarded in probate cases) according to following schedule:

On fees of \$1,000-\$1,999,	15% of total attorney fees;
On fees of \$2,000-\$3,999,	16% of total attorney fees;
On fees of \$4,000-\$5,999,	17% of total attorney fees;
On fees of \$6,000-\$7,999,	18% of total attorney fees;
On fees of \$8,000-\$9,999,	19% of total attorney fees;
On fees of \$10,000-\$11,999,	20% of total attorney fees;
On fees of \$12,000-\$13,999,	21% of total attorney fees;
On fees of \$14,000-\$15,999,	22% of total attorney fees;
On fees of \$16,000-\$17,999,	23% of total attorney fees;
On fees of \$18,000-\$19,999,	24% of total attorney fees;
On fees of \$20,000 and above,	25% of total attorney fees.

Attorneys must provide the Service with a copy of the accounting to the client when remitting surcharge fees.

Each applicant shall agree to remit the surcharge on **contingent fee medical malpractice cases** according to the following schedule AND shall provide the Service a copy of the accounting to the client when remitting surcharge fees:

15% of total attorney fees

Each applicant shall agree to remit the surcharge on **contingency fee landlord tenant cases** according to the following schedule AND shall provide the Service a copy of the accounting to the client when remitting surcharge fees:

- (1) 15% of total attorney fees.

Each applicant shall agree to remit the surcharge on **non-contingent fees** according to the following schedule (with the exception of family law cases):  
10% of total attorney fees;

Applicant shall pay the follow forwarding fee on **non-contingent family law** matters according to the following schedule:  
5% of total attorney fees.

On court-appointed family, juvenile dependency, delinquency and adult criminal cases, pursuant to contract with the Superior Court, applicant shall pay 5% of total fees paid by the Court. A portion of these fees is deducted and remitted to the Service; the balance of the deducted fees is retained by the Court to help defray the administrative cost of the court-appointment billing programs.

#### **RULE 6 - EXPERIENCE PANEL QUALIFICATIONS PROCEDURES FOR NEW AND RENEWING APPLICANTS**

- A. Each eligible applicant for a particular panel or panels must be found qualified for such panel by the Director or Qualifications Subcommittee.
- B. Each applicant's written application and qualifications statement shall be initially reviewed by the staff to determine prima facie compliance with all general eligibility rules and qualifications for the particular panels applied for.
- C. The Director may approve applications for experience panels if the applicant meets the standards for such panel or panels.
- D. Qualifications statements may be subject to verification by the Committee, Qualifications Subcommittee, or Director. Applicants showing compliance with the general eligibility rules but failing to show prima facie compliance with the qualification requirements of the particular panel or panels applied for shall not be approved for panel membership unless approval is obtained from the Qualifications Subcommittee. The Qualifications Subcommittee shall determine whether an applicant who has not shown prima facie qualifications compliance can demonstrate substantial compliance by showing equivalent minimum experience or other qualifications.
- E. The Director or Qualifications Subcommittee may require the applicant to furnish additional information, orally, in writing, or both, relevant to applicant's qualifications for a particular panel, and may further require substantiation of any response by applicant. The Director or Qualifications Subcommittee may also seek independent

verification of any applicant's response and shall otherwise perform the function of qualifying applicants for the several panels maintained by the Service.

- F. Except as herein expressly provided, determination of what is substantial compliance with particular qualification requirements, or what is equivalent experience or qualification, shall be solely within the discretion of the Qualifications Subcommittee.
- G. Applicants who fail to comply or qualify must be promptly notified in writing of that fact and advised of the particular eligibility requirements and/or qualifications found lacking and given an opportunity to furnish additional information.
- H. Any applicant who has been found not to qualify for a particular panel or panels, and who has otherwise complied with these Rules and all requests made hereunder, shall have the right to appeal such finding in writing to the Qualifications Subcommittee. Applicant must file an appeal no later than twenty (20) days of her/his being notified of her/his failure to qualify.
- I. The vote of a majority of the Subcommittee members present at the consideration of the appeal (minimum of 4) shall be required to overrule the previous finding of the Qualifications Subcommittee. The appeal shall be granted or denied in writing within forty-five (45) days from the date the filing of the appeal was received, unless time is extended with applicant's consent.
- J. All communications, deliberations, results, and records of the Qualifications Subcommittee's activities shall be confidential.

**RULE 7 – PEER/REFERENCE REVIEW PROGRAM FOR COURT-APPOINTMENT PANELS**

- A. In addition to panel application experience requirements which new and renewing applicants to the court-appointment panels must meet, an investigation pursuant to the Peer/Reference Review Program is also conducted to evaluate each new and renewing applicant's suitability and/or continued suitability for membership. This review is conducted by the LRIS on behalf of the Superior Court, Criminal Division and the Unified Family Court, Juvenile Delinquency and Dependency divisions.
- B. In the event that the Qualifications Subcommittee denies an application based upon information received through the Peer/Reference Review process, the court-appointment panel applicant or panel member may appeal the decision of the Qualifications Subcommittee under LRIS Rule 8 – Appealing Decisions of Eligibility.

## **RULE 8 – APPEALING DECISIONS OF ELIGIBILITY**

After a rejected applicant is advised of the grounds for rejection under these Rules, the rejected applicant may appeal the decision(s) of the Director and/or of the Qualifications Subcommittee to the LRIS Committee in writing. The LRIS Committee may take whatever action it deems appropriate in light of the facts, the written evidence provided by the applicant and any other circumstances of the particular appeal the LRIS Committee deems relevant. Action of the LRIS Committee shall be final.

## **RULE 9 - PANEL LISTS**

- A. Enrollment of approved member attorneys on to area of practice panels shall be recorded at the office of the Service.
- B. A separate list of panel membership shall be maintained for each panel. Each list shall contain information about each attorney who is a member of the panel, including the attorney's office address, office telephone number and such other information as the Committee shall prescribe.
- C. Once approved, new applicants' names shall be placed into rotation at the bottom of the panel list as of the date the application was received.

## **RULE 10 - REFERRAL PROCEDURES**

- A. The Service shall be located in the office of the Bar Association.
- B. The following referral procedures shall be employed with respect to each panel:
  - 1. Any person, regardless of place of residence, may contact the Service and request referral to an attorney. However, the Service shall be under no obligation to attempt to refer any person to more than two (2) attorneys on any one (1) matter.
  - 2. The interviewer shall question the prospective client in an effort to determine the nature of the client's problem. If the interviewer cannot make the determination, the question shall be referred to another interviewer or the Supervisor or Director.
  - 3. The interviewer shall first attempt to make an appointment for the client with the appropriate panel member whose last referral from the panel was farthest in time from the date of referral. If for any reason an appointment cannot be made at a time satisfactory to the client, the interviewer shall attempt to make an appointment with the panel member whose last referral from the panel was next farthest, followed until an appointment is made. The Service may give consideration to the convenience of the client, including the client's access to the attorney's place of business and language needs of the client.

4. If a panel member refuses (for any reason other than a conflict of interest) to make an appointment for an initial interview with a client during office hours at a time satisfactory to the client, the refusal shall be recorded and the third refusal shall be treated as a referral for purposes of determining the order of future referrals.
5. The decision of the Service as to which of the panels or subpanels a client is referred shall be accepted by the member to whom the client was referred as appropriate for the initial interview; if, during that interview, the member determines that the matter should be assigned to another panel, the member shall promptly notify the Service, and the decision of the Service as to the proper panel shall be final.
6. All referrals shall be made without regard to race, color, creed, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight and height.

#### **RULE 11 - HANDLING OF REFERRALS**

- A. All prospective clients shall be referred to individual panel attorneys (rather than the attorney's law office) on a rotational basis within each panel, as herein provided. Each attorney to whom a client is referred is individually responsible for providing the initial consultation for such client; further services may be rendered to the client through another attorney in the office pursuant to normal office procedures.
- B. Each attorney is expected to handle referral clients with the same courtesy and diligence as nonreferral clients.
- C. No panel member shall be obligated to render service beyond the initial one-half hour consultation.
- D. It shall be the obligation of each attorney to whom a client is referred to determine at the outset whether a conflict of interest exists and, if so, to immediately report such determination back to the Service and thereupon facilitate the referral of the client to the next available panel member.

#### **RULE 12 - FEES**

- A. Each panel member to whom a client is referred by the Service shall consult with such client at the appointed time in the attorney's office for up to one-half hour for the sum established by the Committee, which sum the attorney shall collect in advance and promptly forward to the Service as the fee for the consultation.
- B. If the attorney expects to seek compensation for a longer consultation or for service (such as preparing any legal document or representation in any case or venture), or if longer consultation or further services are requested by the client, the attorney and the



client shall establish in advance a fee arrangement therefore. Under no circumstances shall the attorney use the initial half hour of consultation exclusively to discuss fees and then bill the client at his or her regular rate for a half hour of substantive legal consultation.

- C. Failure to put the fee agreement with the client into writing shall be a violation of these rules and may subject the panel attorney to discipline under these rules.
- D. Whenever fee arrangements for compensation are being agreed upon, the attorney shall bear in mind the public service nature of this Service and, accordingly, shall give due consideration to the client's ability to pay in fixing the terms of all such compensation.

### **RULE 13 - PUBLICITY AND PUBLIC RELATIONS**

- A. The Committee shall endeavor to see that the Service maintains an adequate publicity program. The Service may promote its activities in any manner consistent with accepted standards of publicizing Lawyer Referral and Information Services generally.
- B. Any and all media available may be used to publicize the Service. Particular emphasis should be placed on media designed to reach those persons who may not have an attorney and/or those who are likely to fail to recognize a problem as a legal one.

### **RULE 14 - FORMS, RECORDS AND REPORTS**

- A. The Service shall maintain records of its operation and shall adopt the necessary forms satisfactory to the State Bar, including the following:
  - 1. Rules of the Service
  - 2. Attorney's Application and Agreement
  - 3. Client's Referral Form (Disposition Form)
  - 4. Case Status Reports (case tracking and fee collection records)
  - 5. Experience Panel Applications
  - 6. Client Questionnaires
- B. The Committee shall periodically review such forms and records and make such changes, additions and deletions as appear appropriate.
- C. All Committee and Service records shall be available for inspection by Committee members and the officers of the Bar Association at all reasonable times, but shall otherwise be treated as confidential.
- D. The Service shall maintain its certification by the State Bar of California, by completing and submitting the required recertification applications designated by the State Bar.

**RULE 15 – GROUNDS FOR RESIGNATION, WITHDRAWAL, SUSPENSION, REMOVAL AND/OR DENIAL OF READMISSION**

- A. Any panel member may resign or withdraw from a panel or panels at any time as long as the attorney has fully completed reports on all unreported referrals, paid any fees due to the LRIS, and has satisfied any other obligations to the LRIS pursuant to the agreement between the attorney and the LRIS.
- B. Any panel member may be suspended for so long as there is a failure, after a 20 day written notice, to:
1. Pay any required fee;
  2. Collect and forward any consultation fees;
  3. Submit all required reports;
  4. Comply with the LRIS Rules or Attorney Agreement
- C. Any panel member may be suspended without notice in exigent circumstances at the discretion of the LRIS Director provided that all of the following criteria are satisfied:
1. The panel member is notified within 48 hours of the fact of the suspension and the reasons for it; and the Qualifications Subcommittee members receive such notification within 10 days;
  2. The panel member is given an opportunity to respond within a reasonable time after action by the Director and to challenge the Director's decision;
  3. If the panel member does not respond, and the Director decides that continued suspension or other disciplinary action is appropriate, or if after consideration of the panel member's response, the Director so decides, the matter shall be considered by the Qualifications Subcommittee;
  4. A matter brought to the Qualifications Subcommittee under this provision shall be considered a "complaint" and be handled thereafter according to the Rule 15; and,
  5. Exigent circumstances are those situations where the facts which gave rise to the complaint, if known to the client, would likely affect a client's willingness to be represented by that attorney; or where such facts, if true, would likely bring discredit or disfavor on, or otherwise adversely affect the San Francisco-Marín Lawyer Referral and Information Service and The Bar Association of San Francisco. Exigent circumstances may include, but are not limited to, an order of the Court.
- D. Any panel member may be removed from any or all panels or suspended therefrom or otherwise disciplined, in accordance with the Rule 16.
- E. Any panel member's application for renewed membership may be withheld from processing or rejected where the panel member has received notice under Section B of this Rule and the failure has continued into the next membership year. Any panel

member's application may also be withheld from processing or rejected where the panel member has received notice under Section C of this Rule.

- F. While a panel member is suspended no new referrals shall be made, though the panel member shall be obligated to remit fees and complete case status reports as otherwise required by agreement with the Service.
- G. If an applicant has been previously removed from LRIS panel membership for cause, readmission to the panel may be denied by the Qualifications Subcommittee, if a majority of the members determine that the nature of the prior removal is such that, if known to a prospective client, would adversely affect the client's decision to meet with or hire the applicant, or, if known, would adversely affect the client's opinion of the Service.
- H. In exercising its discretion regarding the suspension, removal or readmission of a panel member, the Qualifications Subcommittee may consider any factors it deems relevant, including but not limited to the following:
  - 1. The reason(s) for the suspension, removal or withdrawal of the applicant;
  - 2. Any subsequent remedial action or mitigation taken by the applicant;
  - 3. Whether the applicant continued to maintain professional liability insurance during the period since the applicant was suspended or removed from or withdrew from the Service; and,
  - 4. Whether the applicant complied with administrative requirements and obligations to the LRIS enumerated herein during the time the applicant was suspended or removed from or withdrew from the Service.

## **RULE 16 – PROCEDURES FOR SUSPENSION AND/OR REMOVAL FROM LRIS PANEL AND/OR OTHER DISCIPLINARY ACTION**

### **A. Commencement of Actions Following Complaint**

- 1. Upon receipt of a complaint from any source, including the Court, regarding the conduct of a member of the LRIS panel, the Director shall forthwith investigate the complaint. The Director in his or her discretion may refer the matter and/or seek the advice or involvement of the Qualifications Subcommittee regarding the investigation. Said investigation shall be conducted with due diligence and shall be commenced within fourteen (14) days of the receipt of the complaint. A good faith effort shall be made to complete the investigation within sixty (60) days of the commencement of the investigation. The Director shall obtain a written response to the complaint from the panel member unless requested not to do so by a governmental or regulatory agency or by the Court. Such written response shall be supported by any evidence the panel member would like to offer in support of his or her response.

2. The following list of actions illustrates but does not limit the circumstances that may provide the grounds for a complaint and disciplinary action:
  - i. Failure to submit promptly all required reports and fees;
  - ii. Providing false information to the Service or clients;
  - iii. Unexcused failure to meet clients at the appointed time;
  - iv. Unexcused failure to appear at a scheduled hearing for client;
  - v. Failure to keep a record of referred clients for five (5) years. Such records must be kept for a longer period so long as a surcharge on fees may become due;
  - vi. Failure to comply with the procedures for receiving and handling Court-appointed cases;
  - vii. Display of rude or belligerent attitude toward referral staff, clients, other attorneys or the Court;
  - viii. Failure to provide one-half hour consultation;
  - ix. Repeated failure to return telephone calls or answer written communications of clients or referral staff;
  - x. Failure to have clear, written fee agreement with client.
  - xi. Failure to keep client informed of progress of case;
  - xii. Failure to explain resolution of case to client;
  - xiii. Unexplained delay of case by attorney which resulted in depriving client of timely economic benefit;
  - xiv. Failure to return files promptly to client;
  - xv. Repeated refusal to accept referral of cases from referral service;
  - xvi. Failure to respond to or cooperate in the resolution of client's complaint;
  - xvii. Failure to be available to meet clients, receive mail, calls and/or service of process in an office within the City and County of San Francisco or within the County of Marin during regular business hours;

- xviii. Use of duress to collect fee from client;
  - xix. Unexcused failure to file legal action or decline representation promptly after consultation with client and research of case;
  - xx. Failure to give due consideration to the client's ability to pay when arranging the terms for compensation;
  - xxi. Commencement of disciplinary proceedings against the member by the State Bar;
  - xxii. Filing of an accusatory criminal pleading against the member;
  - xxiii. Failure to comply with the Rules of Professional Conduct;
  - xxiv. Failure to comply with the LRIS rules;
  - xxv. Complaint by or order of the Court;
  - xxvi. The member's conviction of a crime or decision by State Bar imposing disciplinary action against the member.
3. Complaints involving a past crime or disciplinary decision, or a pending criminal charge or disciplinary proceeding or any adverse action that in the discretion of the Director should be further evaluated, shall be reviewed by the Qualifications Subcommittee. The Qualifications Subcommittee shall determine whether the past or pending adverse charge or decision warrants removal, suspension, or other discipline by the Service, and may consider, but is not limited to, the following factors in rendering its decision:
- a. How and to what extent the matter appears to affect the quality of the attorney's representation of his or her client(s);
  - b. How and to what extent the attorney will be able fully to serve clients during the pendency of the action;
  - c. Whether the nature and quality of the underlying offense, if known by the client, would be likely to have a substantial effect on the client's willingness to be represented by that attorney;
  - d. Whether the continued membership of the attorney is likely to bring discredit or disfavor on, or otherwise adversely affect, the Service.
4. Within fourteen (14) days upon completion of the investigation of the complaint, the Director shall prepare a written report of the investigation but only when in his/her opinion there is reasonable cause to believe grounds exist for

suspension or removal or other disciplinary action of a panel member under these rules. Otherwise, the matter shall be closed with no action, and, where appropriate, the accused panel member shall be so notified.

5. The Director shall periodically (but no less than every six (6) months) report to the LRIS Committee on the disposition of all such complaints, and may provide copies of any reports prepared in connection with such complaints.

**B. Referral of Investigation to the Qualifications Subcommittee**

1. In the event the Director believes action on the complaint against the panel member is required but does not warrant immediate interim suspension for exigent circumstances under Rule 15, the Director shall promptly submit to the Qualifications Subcommittee a report of his or her investigation of the complaint that shall contain the following items:
  - a) a summary of the complaint and a summary of the response, if any, of the accused panel member, and
  - b) a recommendation regarding further action.
2. Within fourteen (14) days of the receipt of the Director's report, a majority of the Qualifications Subcommittee shall decide what action it deems appropriate and instruct the Director to implement its decision. Such action includes but is not limited to suspension, removal, and/or participation in an educational program or other remediation.

**C. Notice of Interim Suspension and/or Other Action**

1. The LRIS Committee shall adopt a standard letter of Notice of Interim Suspension and/or Other Action. The letter shall be written by and under the signature of the Director and shall contain a statement of the charges, a statement of whatever further action the Qualifications Subcommittee has taken, and a copy of these Rules.
2. Decisions on Interim Suspensions and/or Other Action may be made without convening a meeting of the Qualifications Subcommittee, but votes by a majority of the entire Subcommittee shall be necessary to make such a decision.
3. The Notice shall be sent via email and U.S. post to the panel member at his/her last known address. The Director shall send such Notice promptly upon receipt of the decision of the Qualifications Subcommittee and it shall be sent in a manner that provides for acknowledgement of receipt by email and proof of receipt of mail by the panel member.

## **D. Hearing Procedures**

### **1. Request for Hearing or Written Rebuttal**

- a) An attorney who desires to have a hearing after a Notice of Interim Suspension and/or Other Action shall, within 15 days of the service of the Notice, send a written request for a hearing to the Director. The attorney may submit a written rebuttal to the alleged violation (together with any supporting material and arguments), prior to, at the time of, or in lieu of the hearing.
- b) If a written rebuttal is submitted, the Qualifications Subcommittee shall make a determination as to the disposition of the matter only after a full consideration of all rebuttal documents. This will take place at the next regularly scheduled meeting of the Qualifications Subcommittee but in no event later than thirty (30) days following receipt of the rebuttal documents. A quorum, consisting of four (4) members, shall be present during this meeting.
- c) If the quorum of the Qualifications Subcommittee determines that further action shall be taken (which includes but is not limited to suspension, removal, participation in an educational program or other remediation) the Qualifications Subcommittee shall notify the panel member in writing within seven (7) days of its decision.
- d) If a hearing is requested within fifteen (15) days of service of the Notice of Interim Suspension and/or Further Action, the hearing shall be conducted by the Qualifications Subcommittee at a time to be specially determined. A quorum, consisting of at least four (4) members of the Qualifications Subcommittee, shall be present during hearings; and only members who have been present during the entire hearing may vote to decide the case unless the accused attorney and the Director stipulate otherwise.
- e) Any decision of the Subcommittee shall be reached by a majority of those voting.
- f) If no hearing is requested and no rebuttal is submitted, the decision of the QS shall become final upon the expiration of twenty (20) days and notice of the same shall be sent thereafter to the panel member.

### **2. Rules Applicable During Hearing**

- a) The Qualifications Subcommittee shall elect one of its members present to preside at each hearing.

- b) The Executive Director of the Bar Association shall designate a volunteer attorney to present evidence and call witnesses in support of the allegations of the Notice of Interim Suspension and/or Further Action and may cross-examine witnesses called by the accused panel member. The Director(s) of the LRIS may also attend and call witnesses in support of the decision(s) of the Qualifications Subcommittee.
- c) The panel member or his/her representative may present evidence and call witnesses in defense or mitigation and may cross-examine witnesses called by the Executive Director and the Director of the LRIS.
- d) The proceedings may be recorded and transcribed only if requested and paid for by the accused panel member (and with five days notice prior to the hearing). The panel member shall bear all costs associated with recording and transcription and shall provide a copy of the transcript of the proceedings to the LRIS.
- e) Evidence shall be received in accordance with the provisions of Section 11513 of the California Government Code. The presiding officer shall administer oaths and affirmations in accordance with Section 11513.
- f) The presiding officer shall make all evidentiary rulings on behalf of the Subcommittee unless a member of the Subcommittee requests a vote on any ruling, in which case the majority shall decide whether or not to receive the evidence.

### 3. Grounds for Removal, Suspension or other Disciplinary Action following Hearing

A panel member may be suspended or removed from the panel, or otherwise disciplined to any lesser extent, upon a showing by a preponderance of the evidence that:

- a) The member has violated any Rule of Professional Conduct of the State Bar of California, or
- b) the member has violated any Rule of the LRIS, or
- c) the member has committed a crime, or
- d) the Court has ordered suspension or removal, or
- e) the Qualifications Subcommittee finds that good cause exists for suspension or removal or other discipline.

#### **E. Finality of Decision**

1. All decisions of the Qualifications Subcommittee regarding suspension, removal or other further disciplinary action of a panel member shall be final and transmitted in writing to the panel member within thirty (30) days of submission. There shall be no further right of review or appeal by any party.



2. Following its decision, the Subcommittee may direct, where appropriate, that any or all of the following steps be taken by the staff:
  - a) notification of The State Bar of California of the action taken,
  - b) notification of other clients referred by the LRIS to the panel member of the action taken, and/or
  - c) notification to any judge or judges of the action taken if the panel member is on an experience panel that receives Court-appointed cases.
  
3. In the event the Qualifications Subcommittee finds a lack of sufficient evidence to sustain the charge, the Qualifications Subcommittee may, in its discretion, direct all references to any interim suspension or further action expunged and/or to the extent possible make up lost referrals.

### **RULE 17 - AMENDMENT**

These rules may be amended by a vote of the majority of members of the LRIS Committee at any time.