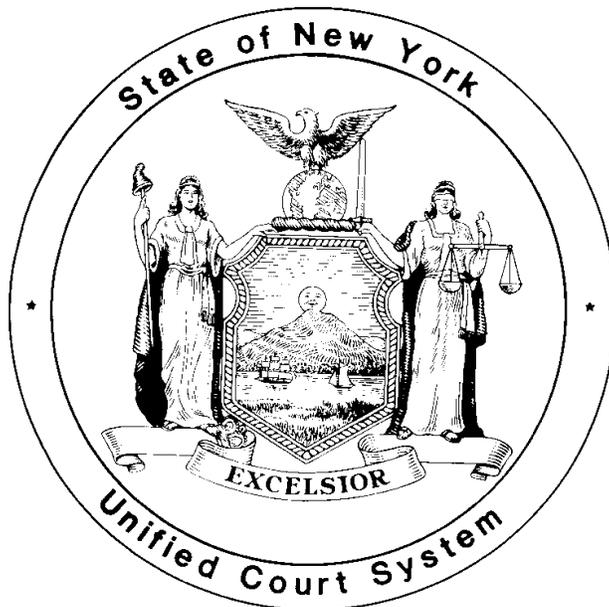


*State of New York*  
*Appellate Division, Supreme Court*  
*Second Judicial Department*

Honorable A. Gail Prudenti  
Presiding Justice

LAW GUARDIAN PROGRAM



ADMINISTRATIVE HANDBOOK

Fall 2008

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Fall 2008

Dear Panel Member:

The Law Guardian Program of the Appellate Division, Second Department, has prepared this Administrative Handbook to acquaint you with the operation of its Program.

The Law Guardian Program seeks to provide the highest quality legal services to children involved in the judicial system. Attorneys for children are compensated for their work and reimbursed for reasonable expenses associated with the representation of their clients.

You will note that the term "attorney for the child" appears throughout this handbook. However, numerous references to the term "law guardian" continue as there has been no statutory change regarding this appellation.

Included in this Handbook is a separate section for Assigned Counsel in the Family Courts of Kings, Queens and Richmond counties. Members of the Panels in those three counties are required to serve both as counsel for children and Assigned Counsel ("18b"). Pursuant to Appellate Division Rule 22 NYCRR 678.11, the Law Guardian Program is responsible for the administration of the Family Court Assigned Counsel Program in those three counties.

Please review the information contained in this Handbook, and retain it for future reference. While the judgment and skills of each individual attorney are the single most important tools they have to offer their clients, the methods, suggestions, and law contained in this Handbook should also prove a valuable resource.

The Appellate Division, Second Department, Law Guardian Program, and the courts in which you will be serving, are grateful to you for your work on behalf of children.

We hope this Handbook provides assistance in your important work.

Very truly yours,



HARRIET R. WEINBERGER

HRW:jce

## POLICY CONSIDERATIONS:

### THE ROLE OF THE ATTORNEY FOR THE CHILD

The role of the attorney for the child is to serve as a child's lawyer. The attorney for the child has the responsibility to represent and advocate the child's wishes and interests in the proceeding or action. To that end, counsel for children are to meet with *every* child-client, *regardless of age*. A law guardian should always act in a manner consistent with proper legal practice and should not assume the role of a social worker, psychologist or advocate for one of the parties. Although it may be tempting to step outside of the role of counsel for the child, particularly when the circumstances of the case are especially tragic, the rules of good lawyering are as applicable to law guardians as to any attorney in a civil proceeding or action. Examples of improper practices include communicating with the parties in absence of their counsel and presenting reports containing facts which are not part of the record.

A rule relating to the function of the attorney for the child has been promulgated by order of the Chief Judge dated October 17, 2007 as follows:

#### §7.2 Function of the attorney for the child.

(a) As used in this part, "attorney for the child" means a law guardian appointed by the family court pursuant to section 249 of the Family Court Act, or by the supreme court or a surrogate's court in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto.

(b) The attorney for the child is subject to the ethical requirements applicable to all lawyers, including but not limited to constraints on: ex parte communication; disclosure of client confidences and attorney work product; conflicts of interest; and becoming a witness in the litigation.

(c) In juvenile delinquency and person in need of supervision proceedings, where the child is the respondent, the attorney for the child must zealously defend the child.

(d) In other types of proceedings, where the child is the subject, the attorney for the child must zealously advocate the child's position.

(1) In ascertaining the child's position, the attorney for the child must consult with and advise the child to the extent of and in a manner consistent with the child's capacities, and have a thorough knowledge of the child's circumstances.

(2) If the child is capable of knowing, voluntary and considered judgment, the attorney for the child should be directed by the wishes of the child, even if the attorney for the child believes that what the child wants is not in the child's best interests. The attorney should explain fully the options available to the child, and may recommend to the child a course of action that in the attorney's view would best promote the child's interests.

(3) When the attorney for the child is convinced either that the child lacks the capacity for knowing, voluntary and considered judgment, or that following the child's wishes is likely to result in a substantial risk of imminent, serious harm to the child, the attorney for the child would be justified in advocating a position that is contrary to the child's wishes. In these circumstances, the attorney for the child must inform the court of the child's articulated wishes if the child wants the attorney to do so, notwithstanding the attorney's position.

## **Summary of the Responsibilities of the Attorney for the Child**

The Statewide Advisory Committee on Counsel for Children has developed as summary of the responsibilities of the attorney for the child:

While the activities of the attorney for the child will vary with the circumstances of each client and proceeding, in general those activities will include, but not be limited to, the following:

- (1) Commence representation of the child promptly upon being notified of the appointment;
- (2) Contact, interview and provide initial services to the child at the earliest practical opportunity, and prior to the first court appearance when feasible;
- (3) Consult with and advise the child regularly concerning the course of the proceeding, maintain contact with the child so as to be aware of and respond to the child's concerns and significant changes in the child's circumstances, and remain accessible to the child;
- (4) Conduct a full factual investigation and become familiar with all information and documents relevant to representation of the child. To that end, the lawyer for the child shall retain and consult with all experts necessary to assist in the representation of the child.
- (5) Evaluate the legal remedies and services available to the child and pursue appropriate strategies for achieving case objectives;
- (6) Appear at and participate actively in proceedings pertaining to the child;
- (7) Remain accessible to the child and other appropriate individuals and agencies to monitor implementation of the dispositional and permanency orders, and seek intervention of the court to assure compliance with those orders or otherwise protect the interests of the child, while those orders are in effect; and
- (8) Evaluate and pursue appellate remedies available to the child, including the expedited relief provided by statute, and participate actively in any appellate litigation pertaining to the child that is initiated by another party, unless the Appellate Division grants the application of the attorney for the child for appointment of a different attorney to represent the child on appeal.

**[APPROVED by the Administrative Board October 4, 2007]**

**STATUTORY PROVISIONS**  
**RELATING TO**  
**REPRESENTATION BY THE ATTORNEY FOR THE CHILD**

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION SECOND DEPARTMENT**

**FAMILY COURT ACT**

**LAW GUARDIANS**

**§ 241. Findings and Purpose**

This act declares that minors who are the subject of family court proceedings or appeals in proceedings originating in the family court should be represented by counsel of their own choosing or by law guardians. This declaration is based on a finding that counsel is often indispensable to a practical realization of due process of law and may be helpful in making reasoned determinations of fact and proper orders of disposition. This part establishes a system of law guardians for minors who often require the assistance of counsel to help protect their interests and to help them express their wishes to the court. Nothing in this act is intended to preclude any other interested person from appearing by counsel.

**§ 242. Law Guardian**

As used in this act, "law guardian" refers to an attorney admitted to practice law in the state of New York and designated under this part to represent minors pursuant to section two hundred and forty-nine of this act.

**§ 243. Designation**

(a) The office of court administration may enter into an agreement with a legal aid society for the society to provide law guardians for the family court or appeals in proceedings originating in the family court in a county having a legal aid society.

(b) The appellate division of the supreme court for the judicial department in which a county is located may, upon determining that a county panel designated pursuant to subdivision (c) of this section is not sufficient to afford appropriate law guardian services, enter into an agreement, subject to regulations as may be promulgated by the administrative board of the courts, with any qualified attorney or attorneys to serve as law guardian or as law guardians for the family court or appeals in proceedings originating in the family court in that county.

(c) The appellate division of the supreme court for the judicial department in which a county is located may designate a panel of law guardians for the family court and appeals in proceedings originating in the family court in that county, subject to the approval of the administrative board of the courts. For this purpose, it may invite a bar association to recommend qualified persons for consideration by the said appellate division in making its designation, subject to standards as may be promulgated by such administrative board.

**§ 244. Duration of Designation**

- (a) An agreement pursuant to subdivision (a) of section two hundred forty-three of this chapter may be terminated by the office of court administration by serving notice on the society sixty days prior to the effective date of the termination.
- (b) No designations pursuant to subdivision (c) of such section two hundred forty-three may be for a term of more than one year, but successive designations may be made. The appellate division proceeding pursuant to such subdivision (c) may at any time increase or decrease the number of law guardians designated in any county and may rescind any designation at any time, subject to the approval of the office of court administration.

**§ 245. Compensation**

(a) If the office of court administration proceeds pursuant to subdivision (a) of section two hundred forty-three of this chapter, the agreement shall provide that the society shall be reimbursed on a cost basis for services rendered under the agreement. The agreement shall contain a general plan for the organization and operation of the providing of law guardians by the respective legal aid society, approved by the said administrative board, and the office of court administration may require such reports as it deems necessary from the society.

(b) If an appellate division proceeds pursuant to subdivision (b) of such section two hundred forty-three, the agreement may provide that the attorney or attorneys shall be reimbursed on a cost basis for services rendered under the agreement. The agreement shall contain a general plan for the organization and operation of the providing of law guardians by the respective attorney or attorneys, and the appellate division may require such reports as it deems necessary from the attorney or attorneys.

(c) If an appellate division proceeds pursuant to subdivision (c) of such section two hundred forty-three, law guardians shall be compensated and allowed expenses and disbursements in the same amounts established by subdivision three of section thirty-five of the judiciary law.

**§ 246. Supervision by Administrative Board**

The administrative board of the judicial conference may prescribe standards for the exercise of the powers granted to the appellate divisions under this part and may require such reports as it deems desirable.

**§ 248. Appropriations**

The costs of law guardians under section two hundred forty-five shall be payable by the state of New York within the amounts appropriated therefor.

**§ 249. Appointment of Law Guardian**

(a) In a proceeding under article three, seven or ten of this act or where a revocation of an adoption consent is opposed under section one hundred fifteen-b of the domestic relations law or in any proceeding under section three hundred fifty-eight-a, three hundred eighty-three-c, three hundred eighty-four, three hundred eighty-four-b or three hundred ninety-two of the social services law or when a minor is sought to be placed in protective custody under section one hundred fifty-eight of this act, the family court shall appoint a law guardian to represent a minor who is the subject of the proceeding or who is sought to be placed in protective custody, if independent legal representation is not available to such minor. In any proceeding to extend or continue the placement of a juvenile delinquent or person in need of supervision pursuant to section seven hundred fifty-six or 353.3 of this act or any proceeding to extend or continue a commitment to the custody of the commissioner of mental health or the commissioner of mental retardation and developmental disabilities pursuant to section 322.2 of this act, the court shall not permit the respondent to waive the right to be represented by counsel chosen by the respondent, respondent's parent, or other person legally responsible for the respondent's care, or by a law guardian. In any other proceeding in which the court has jurisdiction, the court may appoint a law guardian to represent the child, when, in the opinion of the family court judge, such representation will serve the purposes of this act, if independent legal counsel is not available to the child. The family court on its own motion may make such appointment.

(b) In making an appointment of a law guardian pursuant to this section, the court shall, to the extent practicable and appropriate, appoint the same law guardian who has previously represented the child. Notwithstanding any other provision of law, in a proceeding under article three following an order of removal

made pursuant to article seven hundred twenty-five of the criminal procedure law, the court shall, wherever practicable, appoint the counsel representing the juvenile offender in the criminal proceedings as law guardian.

**§ 249-a. Waiver of Counsel**

A minor who is a subject of a juvenile delinquency or person in need of supervision proceeding shall be presumed to lack the requisite knowledge and maturity to waive the appointment of a law guardian. This presumption may be rebutted only after a law guardian has been appointed and the court determines after a hearing at which the law guardian appears and participates and upon clear and convincing evidence that (a) the minor understands the nature of the charges, the possible dispositional alternatives and the possible defenses to the charges, (b) the minor possesses the maturity, knowledge and intelligence necessary to conduct his own defense, and (c) waiver is in the best interest of the minor.

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION SECOND DEPARTMENT**

**JUDICIARY LAW**

**§ 35. Assignment of Counsel to Indigent Persons and Appointment of Physicians in Certain Proceedings**

3. No counsel assigned pursuant to this section shall seek or accept any fee for representing the person for whom he or she is assigned without approval of the court as herein provided. Whenever it appears that such person is financially able to obtain counsel or make partial payment for the representation, counsel may report this fact to the court and the court may terminate the assignment or authorize payment, as the interests of justice may dictate, to such counsel. Counsel assigned hereunder shall at the conclusion of the representation receive compensation at a rate of seventy-five dollars per hour for time expended in court, and seventy-five dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred. For representation upon a hearing, compensation and reimbursement shall be fixed by the court wherein the hearing was held and such compensation shall not exceed four thousand four hundred dollars. For representation in an appellate court, compensation and reimbursement shall be fixed by such court and such compensation shall not exceed four thousand four hundred dollars. In extraordinary circumstances the court may provide for compensation in excess of the foregoing limits.

7. Whenever the supreme court or a surrogate's court shall appoint counsel in a proceeding over which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto pursuant to law, and under circumstances whereby, if such proceeding were pending in family court, such court would be authorized by section two hundred forty-nine of the family court act to appoint a law guardian, such counsel shall be compensated in accordance with the provisions of this section.

NOTE: Paragraphs 1, 2, 4, 5, 6 and 8 of this section are not reprinted here.

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION SECOND DEPARTMENT**

**COUNTY LAW**

**§ 722-c. Services Other Than Counsel**

Upon a finding in an ex parte proceeding that investigative, expert or other services are necessary and that the defendant or other person described in section two hundred forty-nine or section two hundred sixty-two of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, is financially unable to obtain them, the court shall authorize counsel, whether or not assigned in accordance with a plan, to obtain the services on behalf of the defendant or such other person. The court upon a finding that timely procurement of necessary services could not await prior authorization may authorize the services nunc pro tunc. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them or to the person entitled to reimbursement. Only in extraordinary circumstances may the court provide for compensation in excess of one thousand dollars per investigative, expert or other service provider.

Each claim for compensation shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

**REGULATIONS RELATING TO  
REPRESENTATION BY  
THE ATTORNEY FOR THE CHILD**

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION SECOND DEPARTMENT**

**RULES OF THE APPELLATE DIVISION, SECOND DEPARTMENT  
PART 679. FAMILY COURT LAW GUARDIAN PLAN**

**679.1 Family Court Law Guardian Plan Established**

There is hereby established in the counties of the Second Judicial Department a plan for the operation of the Family Court law guardian panels designated pursuant to section 243(c) of the Family Court Act.

**679.2 Administration of Law Guardian Plan**

The law guardian plan for the Second Judicial Department shall be administered by the director of the law guardian program who shall be appointed by the Appellate Division of the Supreme Court, Second Judicial Department, and supervised by the Presiding Justice.

**679.3 Law Guardian Director**

The director of the law guardian program shall administer the plan in accordance with the law, these rules, and with the procedures promulgated by the law guardian advisory committees.

**679.4 Advisory Committees**

The following Family Court law guardian advisory committees shall be established:

- (a) There shall be a single committee for the counties of Kings, Queens and Richmond, which shall be composed of the Deputy New York City Administrative Judge-Family Division or his or her designee, a representative of each of the county bar associations, a member of the faculty of an accredited law school, and three additional members at least one of whom shall be a non-attorney.
- (b) In Nassau County, the committee shall be composed of the Deputy Administrative Judge of the Family Court, a representative of the county bar association, a member of the faculty of an accredited law school, and three additional members at least one of whom shall be a non-attorney.
- (c) In Suffolk County, the committee shall be composed of the Deputy Administrative Judge of the Family Court, a representative of the county bar association, a member of the faculty of an accredited law school, and three additional members at least one of whom shall be a non-attorney.
- (d) There shall be a single committee for the counties of Dutchess, Orange, Putnam, Rockland and Westchester, which shall be composed of the Deputy Administrative Judge of the Family Court, Ninth Judicial District, a representative from each county bar association, a member of the faculty of an accredited law school, and nine additional members at least three of whom shall be non-attorneys.
- (e) On each advisory committee the Family Court Judge member shall serve as chairperson. All the members shall be designated by the Appellate Division, Second Judicial Department, for three-year terms, and may be reappointed for additional terms. The bar association representative members shall be appointed upon recommendation of the respective bar associations. Committee members may not serve on the law guardian panels.
- (f) The director of the law guardian program shall sit as an officio member of each advisory committee.
- (g) The members of the law guardian advisory committees as volunteers are expressly authorized to participate in a State-sponsored volunteer program within the meaning of the Public Officers Law § 17.

### **679.5 Duties of the Advisory Committees**

Subject to the supervision of the Appellate Division, the advisory committees shall establish procedures for appointment and reappointment of attorneys to serve on the law guardian panels, for periodic evaluation of attorneys who serve on the law guardian panels, for training of attorneys on the law guardian panels, for investigating complaints made against members of the law guardian panels, and for removal of attorneys from the law guardian panels.

### **679.6 Eligibility Requirements**

- (a) To be eligible for recommendation for appointment to a panel designated pursuant to Family Court Act § 243 or to a panel established for attorneys assigned pursuant to Family Court Act § 243, an attorney shall be admitted to the bar of the State of New York, in good standing, and shall have served as counsel or co-counsel in the Family Court in a minimum of three proceedings under Family Court Act article 3, article 6 and article 10.
- (b) The advisory committees shall establish co-counsel or mentoring programs to provide experience to admitted attorneys who wish to serve on the panel but lack the qualifications required by paragraph (a).
- (c) The minimum requirements may be waived if, in the opinion of the advisory committees, the applicant is otherwise qualified by reason of education, training or substantial trial experience.
- (d) The advisory committees may set forth such additional requirements and procedures as they see fit, subject to approval by the Appellate Division.

### **679.7 Designation of Panels**

The Appellate Division shall designate the law guardian panel for each county from attorneys recommended by the advisory committees. Appointments to the panel shall not exceed one year, but any panel member may be reappointed.

### **679.8 Periodic Evaluation of Law Guardians**

The advisory committees shall establish procedures to periodically evaluate the representation provided to juveniles by each member of the law guardian panel. In conducting the periodic evaluation the advisory committees shall seek information from Family Court judges and other appropriate and knowledgeable persons. The advisory committees shall not recommend for reappointment any attorney whose representation the committees determine to be unsatisfactory.

### **679.9 Training and Education**

The advisory committees, in cooperation with the director of the law guardian program shall establish a training and education program for members of the law guardian panels. Such a program may be established in conjunction with bar associations, local law schools or other competent organizations. The advisory committees shall make attendance at training programs a requirement for continued membership on the law guardian panels.

### **679.10 Recommendation for Removal**

An advisory committee may, at any time, recommend to the Presiding Justice that an attorney be removed from the panel. Such recommendation shall be submitted in writing, together with a report of the

basis for such recommendation. Such recommendation shall not be required where an attorney is not reappointed at the expiration of his or her term. The Presiding Justice shall have the power to remove members of the Family Court law guardian panels and members of panels established for attorneys assigned pursuant to Family Court Act § 262.

**679.11 Assignments of Counsel**

Assignments of counsel by the Family Court, Supreme Court or Surrogate's Court to represent children in proceedings wherein compensation is paid privately by one or more of the parties, or is authorized pursuant to Judiciary Law § 35 shall be made from the law guardian panels designated pursuant to these rules. This section shall not apply to institutional providers appointed pursuant to Family Court Act § 243(a).

**679.12 Annual Evaluations**

On June 30th of each year, commencing with June 30, 1991, each advisory committee shall submit to the Appellate Division an evaluation of the operation of the plan and the training programs, and recommendations as to procedures, if any, which should be adopted to improve the performance of the plan and the training programs.

**679.13 Annual Reports**

A report of the operation of the law guardian panels shall be filed by the Appellate Division with the Chief Administrator of the Courts on August 1st of each year, commencing August 1, 1991.

**679.14 Compensation of Law Guardians**

(a) Claims by law guardians for services rendered pursuant to Family Court Act § 245 shall be submitted for approval to the Family Court Judge on forms authorized by the Chief Administrator of the Courts. After approval or modification, the Family Court shall forward the claim to the Appellate Division for review by the Presiding Justice or his or her designee. If approved, the Presiding Justice or designee shall certify the claim to the Comptroller for payment.

(b) Claims for compensation by law guardians in excess of the statutory limits set by Family Court Act § 245 and Judiciary Law § 35 shall be accompanied by a sworn statement by the law guardian describing the nature of the proceeding, specifying the time and services rendered and expenses incurred, and detailing the circumstances deemed to be extraordinary that justify a fee in excess of the statutory limits. In the absence of the law guardian's supporting affidavit, excess compensation shall not be allowed. The Family Court, in granting an excess compensation claim, shall make a written finding setting forth the extraordinary circumstances justifying a fee in excess of statutory limits.

**679.15 Construction**

Nothing contained in this Part shall be construed to limit the powers of the Appellate Division, the Presiding Justice, or the administrator of the assigned counsel plan, otherwise granted pursuant to law.

**LAW GUARDIAN PROGRAM**

**APPELLATE DIVISION SECOND DEPARTMENT**

**STANDARDS AND ADMINISTRATIVE POLICIES  
RULES OF THE CHIEF ADMINISTRATOR OF THE COURTS**

**127.2. Compensation of Counsel and Other Providers of Services in Extraordinary Circumstances**

- (a) Whenever an attorney, psychiatrist, psychologist or physician, or a person providing investigative, expert or other services, seeks compensation in excess of the statutory limits prescribed by Article 18-B of the County Law or section 35 of the Judiciary Law, because of extraordinary circumstances, he or she shall submit with his or her claim a detailed affidavit stating the nature of the proceeding, the manner in which the time was expended, the necessity therefor, and all other facts that demonstrate extraordinary circumstances. If the claim is by an attorney, the attorney shall state the disposition of the matter.
- (b) The order of the trial judge with respect to a claim for compensation in excess of the statutory limits may be reviewed by the appropriate administrative judge, with or without application, who may modify the award if it is found that the award reflects an abuse of discretion by the trial judge. Any order modifying a trial judge's award shall be in writing.
- (c) An application for review may be made by any person or governmental body affected by the order.

**127.4 Compensation of Law Guardians**

Claims by law guardians for compensation, expenses and disbursements pursuant to section 245 of the Family Court Act and section 35 of the Judiciary Law shall be determined pursuant to the rules of the appropriate Appellate Division.



## PART 36. APPOINTMENTS BY THE COURT

### § 36.0 PREAMBLE

Public trust in the judicial process demands that appointments by judges be fair, impartial and beyond reproach. Accordingly, these rules are intended to ensure that appointees are selected on the basis of merit, without favoritism, nepotism, politics or other factors unrelated to the qualifications of the appointee or the requirements of the case.

The rules cannot be written in a way that foresees every situation in which they should be applied. Therefore, the appointment of trained and competent persons, and the avoidance of factors unrelated to the merit of the appointments or the value of the work performed are the fundamental objectives that should guide all appointments made, and orders issued, pursuant to this Part.

### § 36.1 APPLICATION

- (a) Except as set forth in subdivision (b), this Part shall apply to the following appointments made by any judge or justice of the Unified Court System:
- (1) guardians;
  - (2) guardians ad litem, including guardians ad litem appointed to investigate and report to the court on particular issues, and their counsel and assistants;
  - (3) law guardians who are not paid from public funds, in those judicial departments where their appointments are authorized;
  - (4) court evaluators;
  - (5) attorneys for alleged incapacitated persons;
  - (6) court examiners;
  - (7) supplemental needs trustees;
  - (8) receivers;
  - (9) referees (other than special masters and those otherwise performing judicial functions in a quasi-judicial capacity);
  - (10) the following persons or entities performing services for guardians or receivers:
    - (i) counsel
    - (ii) accountants
    - (iii) auctioneers
    - (iv) appraisers
    - (v) property managers
    - (vi) real estate brokers
  - (11) a public administrator within the City of New York and for the counties of Westchester, Onondaga, Erie, Monroe, Suffolk and Nassau and counsel to the public administrator, except that only sections 36.2(c) and 36.4(e) of this Part shall apply, and that section 36.2(c) shall not apply to incumbents in these positions until one year after the effective date of this paragraph.
- (b) Except for sections 36.2(c)(6) and 36.2(c)(7), this Part shall not apply to:
- (1) appointments of law guardians pursuant to section 243 of the Family Court Act, guardians ad litem pursuant to section 403-a of the Surrogate's Court Procedure Act, or the Mental Hygiene Legal Service;
  - (2) the appointment of, or the appointment of any persons or entities performing services for, any of the following:
    - (i) a guardian who is a relative of (A) the subject of the guardianship proceeding or (B) the beneficiary of a proceeding to create a supplemental needs trust; a person or entity nominated as guardian by the subject of the proceeding or proposed as guardian by a party to the proceeding; a supplemental needs trustee nominated by the beneficiary of a supplemental needs trust or proposed by a proponent of the trust; or a person or entity having a legally recognized duty or interest with respect to the subject of the proceeding;
    - (ii) a guardian ad litem nominated by an infant of 14 years of age or over;
    - (iii) a nonprofit institution performing property management or personal needs services, or acting as court evaluator;
    - (iv) a bank or trust company as a depository for funds or as a supplemental needs trustee;
    - (v) except as set forth in section 36.1(a)(11), a public official vested with the powers of an administrator;
    - (vi) a person or institution whose appointment is required by law;
    - (vii) a physician whose appointment as a guardian ad litem is necessary where emergency medical or surgical procedures are required.
  - (3) an appointment other than above without compensation, except that the appointee must file a notice of appointment pursuant to section 36.4(a) of this Part.

### § 36.2 APPOINTMENTS

- (a) Appointments by the judge. All appointments of the persons or entities set forth in section 36.1, including those persons or entities set forth in section 36.1(a)(10) who perform services for guardians or receivers, shall be made by the judge authorized by law to make the appointment. In making appointments of persons or entities to perform services for guardians or receivers, the appointing judge may consider the recommendation of the guardian or receiver.
- (b) Use of lists.
- (1) All appointments pursuant to this Part shall be made by the appointing judge from the appropriate list of applicants established by the Chief Administrator of the Courts pursuant to section 36.3 of this Part.
  - (2) An appointing judge may appoint a person or entity not on the appropriate list of applicants upon a finding of good cause, which shall be set forth in writing and shall be filed with the fiduciary clerk at the time of the making of the appointment. The appointing judge shall send a copy of such writing to the Chief Administrator. A judge may not appoint a person or entity that has been removed from a list pursuant to section 36.3(e).
  - (3) Appointments made from outside the lists shall remain subject to all of the requirements and limitations set forth in this Part, except that the appointing judge may waive any education and training requirements where completion of these requirements would be impractical.
- (c) Disqualifications from appointment.
- (1) No person shall be appointed who is a judge or housing judge of the Unified Court System of the State of New York, or who is a relative of, or related by marriage to, a judge or housing judge of the Unified Court System within the fourth degree of relationship.
  - (2) No person serving as a judicial hearing officer pursuant to Part 122 of the Rules of the Chief Administrator shall be appointed in actions or proceedings in a court in a county where he or she serves on a judicial hearing officer panel for such court.
  - (3) No person shall be appointed who is a full-time or part-time employee of the Unified Court System. No person who is the spouse, sibling, parent or child of an employee who holds a position at salary grade JG24 or above, or its equivalent, shall be appointed by a court within the judicial district where the employee is employed or, with respect to an employee with statewide responsibilities, by any court in the state.
  - (4) (i) No person who is the chair or executive director, or their equivalent, of a state or county political party, or the spouse, sibling, parent or child of that official, shall be appointed while that official serves in that position and for a period of two years after that official no longer holds that position. This prohibition shall apply to the members, associates, counsel and employees of any law firms or entities while the official is associated with that firm or entity.  
(ii) No person who has served as a campaign chair, coordinator, manager, treasurer or finance chair for a candidate for judicial office, or the spouse, sibling, parent or child of that person, or anyone associated with the law firm of that person, shall be appointed by the judge for whom that service was performed for a period of two years following the judicial election. If the candidate is a sitting judge, the disqualifications shall apply as well from the time the person assumes any of the above roles during the campaign for judicial office.
  - (5) No former judge or housing judge of the Unified Court System, or the spouse, sibling, parent or child of such judge, shall be appointed, within two years from the date the judge left judicial office, by a court within the jurisdiction where the judge served. Jurisdiction is defined as follows:
    - (i) The jurisdiction of a judge of the Court of Appeals shall be statewide.
    - (ii) The jurisdiction of a justice of an Appellate Division shall be the judicial department within which the justice served.
    - (iii) The jurisdiction of a justice of the Supreme Court and a judge of the Court of Claims shall be the principal judicial district within which the justice or judge served.
    - (iv) With respect to all other judges, the jurisdiction shall be the principal county within which the judge served.
  - (6) No attorney who has been disbarred or suspended from the practice of law shall be appointed during the period of disbarment or suspension.
  - (7) No person convicted of a felony, or for five years following the date of sentencing after conviction of a misdemeanor (unless otherwise waived by the Chief Administrator upon application), shall be appointed unless that person receives a certificate of relief from disabilities.

- (8) No receiver or guardian shall be appointed as his or her own counsel, and no person associated with a law firm of that receiver or guardian shall be appointed as counsel to that receiver or guardian, unless there is a compelling reason to do so.
  - (9) No attorney for an alleged incapacitated person shall be appointed as guardian to that person, or as counsel to the guardian of that person.
  - (10) No person serving as a court evaluator shall be appointed as guardian for the incapacitated person except under extenuating circumstances that are set forth in writing and filed with the fiduciary clerk at the time of the appointment.
- (d) **Limitations on appointments based upon compensation.**
- (1) No person or entity shall be eligible to receive more than one appointment within a calendar year for which the compensation anticipated to be awarded to the appointee in any calendar year exceeds the sum of \$15,000.
  - (2) If a person or entity has been awarded more than an aggregate of \$75,000 in compensation by all courts during any calendar year, the person or entity shall not be eligible for compensated appointments by any court during the next calendar year.
  - (3) For purposes of this Part, the term "compensation" shall mean awards by a court of fees, commissions, allowances or other compensation, excluding costs and disbursements.
  - (4) These limitations shall not apply where the appointment is necessary to maintain continuity of representation of or service to the same person or entity in further or subsequent proceedings.

### § 36.3 PROCEDURE FOR APPOINTMENT

- (a) **Application for appointment.** The Chief Administrator shall provide for the application by persons or entities seeking appointments pursuant to this Part on such forms as shall be promulgated by the Chief Administrator. The forms shall contain such information as is necessary to establish that the applicant meets the qualifications for the appointments covered by this Part and to apprise the appointing judge of the applicant's background.
- (b) **Qualifications for appointment.** The Chief Administrator shall establish requirements of education and training for placement on the list of available applicants. These requirements shall consist, as appropriate, of substantive issues pertaining to each category of appointment — including applicable law, procedures, and ethics — as well as explications of the rules and procedures implementing the process established by this Part. Education and training courses and programs shall meet the requirements of these rules only if certified by the Chief Administrator. Attorney participants in these education and training courses and programs may be eligible for continuing legal education credit in accordance with the requirements of the Continuing Legal Education Board.
- (c) **Establishment of lists.** The Chief Administrator shall establish separate lists of qualified applicants for each category of appointment, and shall make available such information as will enable the appointing judge to be apprised of the background of each applicant. The Chief Administrator may establish more than one list for the same appointment category where appropriate to apprise the appointing judge of applicants who have substantial experience in that category. Pursuant to section 81.32(b) of the Mental Hygiene Law, the Presiding Justice of the appropriate Appellate Division shall designate the qualified applicants on the lists of court examiners established by the Chief Administrator.
- (d) **Reregistration.** The Chief Administrator shall establish a procedure requiring that each person or entity on a list reregister every two years in order to remain on the list.
- (e) **Removal from list.** The Chief Administrator may remove any person or entity from any list for unsatisfactory performance or any conduct incompatible with appointment from that list, or if disqualified from appointment pursuant to this Part. A person or entity may not be removed except upon receipt of a written statement of reasons for the removal and an opportunity to provide an explanation and to submit facts in opposition to the removal.

### § 36.4 PROCEDURE AFTER APPOINTMENT

- (a) **Notice of appointment and certification of compliance.**
  - (1) Every person or entity appointed pursuant to this Part shall file with the fiduciary clerk of the court from which the appointment is made, within 30 days of the making of the appointment, (i) a notice of appointment and (ii) a certification of compliance with this Part, on such form as promulgated by the Chief Administrator. Copies of this form shall be made available at the office of the fiduciary clerk and shall be transmitted by that clerk to the appointee immediately after the making of the appointment by the appointing judge. An appointee

- who accepts an appointment without compensation need not complete the certification of compliance portion of the form.
  - (2) The notice of appointment shall contain the date of the appointment and the nature of the appointment.
  - (3) The certification of compliance shall include:
    - (i) a statement that the appointment is in compliance with sections 36.2(c) and (d); and (ii) a list of all appointments received, or for which compensation has been awarded, during the current calendar year and the year immediately preceding the current calendar year, which shall contain (A) the name of the judge who made each appointment, (B) the compensation awarded, and (C) where compensation remains to be awarded, (i) the compensation anticipated to be awarded and (ii) separate identification of those appointments for which compensation of \$15,000 or more is anticipated to be awarded during any calendar year. The list shall include the appointment for which the filing is made.
  - (4) A person or entity who is required to complete the certification of compliance, but who is unable to certify that the appointment is in compliance with this Part, shall immediately so inform the appointing judge.
- (b) **Approval of compensation.**
- (1) Upon seeking approval of compensation of more than \$500, an appointee must file with the fiduciary clerk, on such form as is promulgated by the Chief Administrator, a statement of approval of compensation, which shall contain a confirmation to be signed by the fiduciary clerk that the appointee has filed the notice of appointment and certification of compliance.
  - (2) A judge shall not approve compensation of more than \$500, and no compensation shall be awarded, unless the appointee has filed the notice of appointment and certification of compliance form required by this Part and the fiduciary clerk has confirmed to the appointing judge the filing of that form.
  - (3) Each approval of compensation of \$5,000 or more to appointees pursuant to this section shall be accompanied by a statement, in writing, of the reasons therefor by the judge. The judge shall file a copy of the order approving compensation and the statement with the fiduciary clerk at the time of the signing of the order.
  - (4) Compensation to appointees shall not exceed the fair value of services rendered. Appointees who serve as counsel to a guardian or receiver shall not be compensated as counsel for services that should have been performed by the guardian or receiver.
- (c) **Reporting of compensation received by law firms.** A law firm whose members, associates and employees have had a total of \$50,000 or more in compensation approved in a single calendar year for appointments made pursuant to this Part shall report such amounts on a form promulgated by the Chief Administrator.
- (d) **Exception.** The procedure set forth in this section shall not apply to the appointment of a referee to sell real property and a referee to compute whose compensation for such appointments is not anticipated to exceed \$750.
- (e) **Approval and Reporting of Compensation Received by Counsel to the Public Administrator.**
- (1) A judge shall not approve compensation to counsel to the public administrator in excess of the fee schedule promulgated by the administrative board of the public administrator under SCPA 1128 unless accompanied by the judge's statement, in writing, of the reasons therefor, and by the appointee's affidavit of legal services under SCPA 1108 setting forth in detail the services rendered, the time spent, and the method or basis by which the requested compensation was determined.
  - (2) Any approval of compensation in excess of the fee schedule promulgated by the administrative board of the public administrator shall be reported to the Office of Court Administration on a form promulgated by the Chief Administrator and shall be accompanied by a copy of the order approving compensation, the judge's written statement, and the counsel's affidavit of legal services, which records shall be published as determined by the Chief Administrator.
  - (3) Each approval of compensation of \$5,000 or more to counsel shall be reported to the Office of Court Administration on a form promulgated by the Chief Administrator and shall be published as determined by the Chief Administrator.

### § 36.5 PUBLICATION OF APPOINTMENTS.

- (a) All forms filed pursuant to section 36.4 shall be public records.
- (b) The Chief Administrator shall arrange for the periodic publication of the names of all persons and entities appointed by each appointing judge, and the compensation approved for each appointee.

## **LAW GUARDIAN PROGRAM COMPONENTS**

- 1. Administrative Staff**
- 2. Support Services & Other Services**
- 3. Law Guardian Advisory Committees**

**IV**

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION, SECOND DEPARTMENT**

**Law Guardian Program Staff**

The direct telephone number to the  
Law Guardian Program is (718) 923-6350.  
The Fax Number is (718)624-5603.

Harriet R. Weinberger, Esq. Director	Ext. 350
Julie Baldwin Court Analyst	Ext. 352
Lorraine Benton-Horne Associate Appellate Court Clerk	Ext. 357 347-401-9992
Gregory Chickel Senior Court Analyst	Ext. 356
Joana C. Eder, Esq. Senior Attorney	Ext. 312
Nancy Guss Matles, L.M.S.W. Support Services Coordinator	Ext. 358
Melvina Spooner Senior Appellate Court Clerk	Ext. 353
Taneca Marksman Assistant Court Analyst	Ext. 313

**Mailing Address**

State of New York  
Law Guardian Program  
Second Judicial Department  
335 Adams Street, Suite 2400  
Brooklyn, New York 11201

## SUPPORT SERVICES AND OTHER RESOURCES

The Second Department is unique in having as a component of the Law Guardian Office, the Support Services Program. It implements and carries out an interdisciplinary approach to representation. The program is designed to be the central consultative authority within the Appellate Division, Second Judicial Department, for law guardians seeking resources and support services for their clients. It is headed by Nancy Guss Matles, the Support Services Coordinator. Ms. Matles is a licensed social worker and is available to assist attorneys in securing resources such as preventive services, counseling, domestic violence, and services for “at risk” youth.

A resource directory of Mental Health Professionals prepared by the Support Services Coordinator provides attorneys with a comprehensive listing of psychiatrists, psychologists and social workers that law guardians and assigned counsel may use when requesting forensics.

A Family Court Appellate Handbook has been created to advise Law Guardians and Assigned Counsel members of the duties and procedures of representation at the appellate level. It includes statutes, rules, and forms applicable to appellate practice.

The Law Guardian Programs of the four Judicial Departments also collaborate in preparing the Law Guardian Reporter, a quarterly newsletter containing recent case law digests, articles, departmental news and legislative developments.

For more information on the above services, please contact the Law Guardian Program Office.

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION, SECOND DEPARTMENT**

**LAW GUARDIAN ADVISORY COMMITTEES**

**SECOND & ELEVENTH**

**JUDICIAL DISTRICTS: (Kings, Queens and Richmond Counties)**

Chair:

Hon. Edwina Richardson-Mendelson  
Supervising Judge  
Queens County Family Court  
151-20 Jamaica Avenue  
Jamaica, NY 11432

Hon. Rachel A. Adams  
New York County Family Court  
60 Lafayette Street  
New York, NY 10013

Professor John M. Farago  
City University of New York  
School of Law  
65-21 Main Street  
Flushing, NY 11367

Amy Feldman, LCSW  
Executive Director, CASA  
50 Broadway, 31<sup>st</sup> Floor  
New York, NY 10004

Hon. Paula Hepner  
Supervising Judge  
Family Court - Kings County  
283 Adams Street  
Brooklyn, NY 11201

Hon. Patricia Henry  
Kings County Supreme Court - IDV  
320 Jay Street  
Brooklyn, New York 11201

Harvey Jacobs, Esq.  
26 Court Street  
Brooklyn, NY 11242

Claire Cody Miller, Esq.  
One Edgewater Plaza, Suite 201  
Staten Island, NY. 10305

Barbara A. Di Fiore, Esq.  
Administrator, Assigned Counsel  
253 Broadway  
New York, NY 10007

Laura A. Russell, Esq.  
Supervising Attorney, Family Law Unit  
Legal Aid Society, Civil Division, Bronx Neighborhood Office  
953 Southern Boulevard  
Bronx, New York 10459

Audrey Sager, Esq.  
118-35 Queens Blvd  
Forest Hills, New York 11375

Richard Spolzino, Esq.  
Queens County Family Court  
151-20 Jamaica Avenue  
Jamaica, New York 11432

Harriet R. Weinberger, Esq.  
Appellate Division, Second Dept.  
335 Adams Street - 24<sup>th</sup> Floor  
Brooklyn, NY 11201

**NINTH JUDICIAL DISTRICT: (Westchester, Dutchess, Orange, Rockland and Putnam Counties)**

Chair:

Hon. Kathie E. Davidson  
Supervising Judge, Family Courts  
Ninth Judicial District  
111 Dr. Martin Luther King, Jr., Blvd.  
White Plains, NY 10601

Ronnie Gouz Berman, Esq.  
Berman, Bavero, Frucco, Gouz  
& Braunstein, PC  
123 Main Street  
White Plains, NY 10601

Rosa Cabanillas-Thompson, Esq.  
Westchester County Family Court  
285 Main Street  
Goshen, NY 10924

Mitchell Cohen  
One Blue Hill Plaza, #800  
PO Box 1629  
Pearl River, NY 10965

Hon. Lori Currier Woods  
Rockland County Family Court  
One South Main Street - Ste. 300  
New City, NY 10956

Hon. Linda Christopher  
Rockland County Family Court  
One South Main Street - Ste. 300  
New City, NY 10956

Rachel Hahn, Esq.  
Office of Court Administration  
140 Grand Street, Ste. 701  
New York, NY 10601

Elizabeth D. Hudak, Esq.  
38 Gleneida Avenue  
Carmel, NY 10512

Benita Cooper Marks  
2269 Saw Mill River Road, Bldg. 1  
Elmsford, NY 10523

Hon. La Tia Martin  
Westchester County Supreme Court  
111 Dr. Martin Luther King, Jr., Blvd.  
White Plains, NY 10601

Juliana Maugeri, Esq.  
Dutchess County Supreme Court  
10 Market Street  
Poughkeepsie, NY 12601

Catherine M. Miklitsch, Esq.  
Family Court Rockland County  
1 South Main Street  
New City, NY 10956

Camille Failla Murphy  
57 Franklin Avenue  
Rye, NY. 10580

Alan Rosenblatt, Esq.  
Birbrower, Montaldo, Condon & Frank, PC  
67 North Main Street  
New City, NY 10956

Laura Saprstein  
Westchester County Family Court  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, NY 10601

John Sulich  
Westchester County Family Court  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, NY 10601

Harriet R. Weinberger, Esq.  
Appellate Division, Second Dept.  
335 Adams Street - 24<sup>th</sup> Floor  
Brooklyn, NY 11201

**TENTH JUDICIAL DISTRICT: (Nassau County)**

Chair:

Hon. Carnell T. Foskey  
Supervising Judge  
Nassau County Family Court  
1200 Old Country Road  
Westbury, NY 11590

Ilene Barshay, Esq.  
Touro Law Center  
300 Nassau Road  
Huntington, NY 11743

Jeffrey Carpenter, Esq.  
Nassau County Family Court  
1200 Old Country Road  
Westbury, NY 11590

Carl G. Cohen, Esq.  
One Old Country Road, Ste. 427  
Carle Place, NY 11514

Stephen Gassman, Esq.  
666 Old Country Road  
Garden City, NY 11530

Charlene Malone, Esq.  
Matrimonial Center  
300 County Seat Drive  
Mineola, NY 11501

Christopher Pizzolo, Esq.  
Nassau County Family Court  
1200 Old Country Rd.  
Westbury, NY 11590

Hon. Hope Schwartz Zimmerman.  
Nassau County Family Court  
1200 Old Country Rd.  
Westbury, NY 11590

Cynthia G. Scott  
Coalition on Child Abuse and Neglect  
229 Seventh Street  
Garden City, NY 11530

**TENTH JUDICIAL DISTRICT: (Suffolk County)**

Chair:

Hon. David Freundlich  
Supervising Judge  
Family Court, Suffolk County  
Cohalan Court Complex  
400 Carleton Avenue  
Central Islip, NY 11722

Isabel Buse, Esq.  
Family Court Suffolk County  
Cohalan Court Complex  
400 Carleton Avenue  
Central Islip, NY 11722

Thomas E. Drayott, Esq.  
Cohalan Court Complex  
400 Carleton Avenue  
Central Islip, NY 11722

John Holownia, Esq.  
Office of County Attorney  
Cohalan Court Complex  
400 Carleton Avenue  
Central Islip, NY 11722

Edward A. Parker, Esq.  
Office of County Attorney  
Cohalan Court Complex  
400 Carleton Avenue  
Central Islip, NY 11722

Daryl M. Rivera  
Sagamore Children's Center  
197 Half Hollow Road  
Dix Hills, NY 11746

**LAW GUARDIAN PROGRAM**  
**ADMINISTRATIVE POLICIES AND PROCEDURES**

**Primary Day Assignments**  
**(Nassau, Suffolk, Kings, Queens & Richmond Counties)**

You will be selected either by the Family Court in your particular county or by the Law Guardian Program Office to be present in court on designated primary days for the purpose of being assigned new cases. On primary day, attorneys must accept all assignments. You may not schedule pending matters on your primary days. You may be assigned cases on your non-primary days only where the appointment would insure continuity of representation.

**Nassau County:** Please contact Maria Rizzi, Senior Administrative Secretary to the Nassau County Family Court, at 516-571-9095 to schedule your Primary days. For instructions as to how to complete your primary day voucher, please refer to page 72 in the Law Guardian Internet Voucher Manual.

**Suffolk County:** Suffolk County: Attorneys are assigned approximately one primary day per month which are selected six months in advance. Please contact Thomas Draycott, Chief Court Attorney to the Suffolk County Family Court, at 631-853-428 if you have questions about your Primary Day assignments.

**Kings and Queens Counties:** Attorneys are to be available for assignment on pre-arranged primary days. Each panel member must sign up for a minimum of one primary day per month as a requirement to continue on the panel. Please call Lorraine Benton-Horne, Associate Appellate Court Clerk, at 347-401-9992 to schedule your primary days. For instructions as to how to complete your primary day voucher, please refer to page 60 in the Law Guardian Internet Voucher Manual.

**Richmond County:** Serving as a primary attorney one afternoon per month in the Family Court and as a phone alert attorney one afternoon per month for both the Family and Supreme Courts is a requirement for continuation on the panel. Please call Gregory Chickel, Senior Court Analyst, at 718-923-6356 to schedule your primary days. For instructions as to how to complete your primary day voucher, please refer to page 60 in the Law Guardian Internet Voucher Manual.

## **LAW GUARDIAN COMPENSATION AND REIMBURSEMENT GUIDELINES**

### **Introduction**

The Law Guardian Program is responsible for compensating law guardians and for paying reasonable disbursements incurred in the representation of law guardian clients. This document describes the policies and procedures which govern how payments are made.

### **A. Panel Membership Required**

1. An attorney must be a member of a county law guardian panel or of the Appellate Division's Law Guardian Appeals Panel to be compensated as a law guardian.

2. Panel Members must comply with the attorney registration requirements of Judiciary Law § 468-a, and are expected to notify the OCA Attorney Registration Unit and update their Law Guardian Internet Voucher System profile of any change of contact information.

### **B. Compensation Rates**

#### 1. Rate of Compensation:

Law guardian representation in both trial and appellate court proceedings are compensated at the rate of \$75 per hour for both in-court and out-of-court time. Services provided before January 1, 2004 should be charged at \$25 per hour out-of- court and \$40 per hour in-court.

#### 2. Compensation Rates in Excess of the Statutory Limits:

Claims for compensation in excess of the statutory maximum of \$4,400 require an affirmation of “extraordinary circumstances” to be submitted as part of your online voucher. You will be prompted by the Law Guardian Internet Voucher Program to prepare and submit your affirmation. A copy should be included with the original voucher. The affirmation should set forth the extraordinary circumstances that compelled the expenditure of time. The following, which must be described in detail, are among the factors which may be considered in determining whether extraordinary circumstances exist justifying a fee in excess of statutory limits: unusually complex factual or legal issues; novel issues of law requiring extensive legal research; or lengthy trial or other in-court proceedings which alone raise the compensation claim above statutory limits. This applies to both trial and appellate work.

### **C. Compensation Guidelines**

#### 1. In Court and Out-of-Court Time

a) In-court time is time spent at court facilities in the presence of the judge, either in the courtroom or in chambers, on a matter appearing on the court’s calendar for that day.

b) In-court time includes time spent in a court-ordered conference at court facilities in conjunction with an appearance, whether or not the judge is present.

c) All other time expended in representing a law guardian client, including time spent at court facilities for purposes other than an appearance before a judge, e.g., reviewing files, meeting with client, is out-of-court time.

## 2. Representation in Collateral Matters

a) An attorney for the child may be compensated for representation of a client in a legal or administrative matter collateral to the court proceeding for which the attorney for the child was assigned when:

i. The collateral matter arises from the same circumstances as the assigned court proceeding;

ii. Representation by the attorney for the child in the collateral matter is required to assure the most favorable outcome for the client in the assigned court proceeding.

## 3. Double-Billing Prohibited

Double-billing is the practice of rendering legal services on multiple cases in a given period, and then requesting payment for the entire period on the voucher for each case. For example, waiting at court one hour for two cases to be called, and then requesting payment for one hour for each case, would be double-billing.

## 4. Specificity of Work Performed

Please take care in preparing your voucher and specify, with particularity, the nature of the out-of-court work performed, the date, and time spent. A mere recitation of “**open file**”, “**closed file**” or “**reviewed file**” is **not** permitted. Additionally, “**setting up a file**” and “**preparing a file for storage**” is not permitted. The failure to be specific with individual time records may result in your voucher being returned to you.

## 5. Client Interview

In the event that you do not meet with your client you must submit an affirmation setting forth your reasons. The affirmation will be available online.

## 6. Time Records

Law guardians are expected to maintain case files containing, among other things, contemporaneous time records for each of their clients separate from their bills. These records should include a daily log or diary which records how much time was spent working on that case that day, what work was performed and where the work was performed. Time records must minimally include the date and time of the activity, client's name, actual amount of time expended and a description of the work performed. Descriptions should be sufficiently specific and detailed to enable one to understand the nature and extent of the services performed.

## 7. Expenses of Representation

The Law Guardian Program will pay reasonable expenses of representation, i.e., out-of-pocket expenses incurred by a law guardian on behalf of a client. **Office overhead, however, will not be reimbursed.** For example, expenses for in-office computer-assisted legal research (e.g. Westlaw and Lexis) are considered overhead and will not be reimbursed.

Time spent performing administrative duties, including secretarial tasks is not compensable.

Please note that voucher preparation time is not compensable.

Complete documentation, including all receipts and an itemization of all expenses is required in order to reimburse attorneys for any expenditures. Legible receipts in the form of a cancelled check, or other document that clearly indicates that the bill was paid, must be submitted with the attorneys' requests for payment.

The Law Guardian Program will pay the following reasonable expenses of representation including out-of-pocket expenses incurred on behalf of the client:

### FAXES:

- only long distance facsimile transmissions may be reimbursed;
- copy of paid bill must be submitted.

### PHONE CHARGES:

- only long distance telephone charges may be reimbursed;
- copy of telephone bill must be submitted.

### PHOTOCOPYING:

- 15 cents per copy limit; the number of copies must be indicated;
- example: 10 copies x 15 cents = \$1.50;
- in excess of 50 pages, a receipt must be submitted.

### POSTAGE:

- \$15.00 limit without receipts;
- Federal Express, Certified Mail, etc., may be reimbursed;
- receipts must be submitted.

### PARKING:

- allowed only in 9th Judicial District;
- \$5.00 limit without receipts.

### WITNESS FEES & PROCESS SERVICE:

- a copy of the paid bill or the cancelled check must be submitted for reimbursement.

### TRAVEL EXPENSES:

-mileage: As of January 1, 2009, the rate is .550 per mile; from July 1, 2008 through December 31, 2008 the rate is .585 per mile; from January 1, 2008 through June 30, 2008 the rate is .505 per mile. You will only be reimbursed for mileage incurred to or from a visit to a client, e.g., to the home or residential facility, and you must indicate the number of miles traveled.

-public transportation costs incurred to or from a visit to a client, *e.g.*, to the home or a residential facility;

-Bus/Subway Fares: reimbursable for clients when released from detention or after intake;

-tolls: receipt required;

-time spent traveling to and from court is not compensable.

TRANSCRIPTS:

-are not paid on the Law Guardian voucher. Court reporters bill on a “Standard Voucher,” together with the New York State Law Guardian Minute Order Form.

**D. Voucher Preparation**

**1. Submission of Voucher Required**

a) To receive compensation for legal services to a client, s/he must have access to the Law Guardian Internet Voucher System (LGIV). In order to attain access you must obtain a user name and register your on-line account. If you do not have a user name, please call the Law Guardian Program Office at 718-923-6353 or 718-923-6313.

b) An original law guardian online voucher, *with the judge’s signature*, must be submitted for payment. *A stamped signature is not acceptable*. Please prepare two copies of the voucher, together with any supporting documentation; one copy for the trial court and one copy should be retained by the law guardian. Only if the amount you request is for \$2,500 or more, should an additional copy of your voucher together with any supporting documentation be submitted to the Law Guardian Program Office.

**2. Time Period for Submission**

a) The voucher is to be submitted at the completion of a matter and must be received by this office within 45 days of disposition. If a warrant is issued, and there is no return within 30 days, you should submit the voucher after the expiration of the 30 day period. In the event that you are submitting a voucher more than 45 days after disposition, you will be required to submit an affirmation stating that no prior claim has been made nor has payment been received for the services rendered and explaining the reason for the delay. In these instances, you will be prompted by the LGIV to prepare and complete an affirmation.

b) In the event unique or special circumstances exist that you believe may justify the submission of an interim voucher, you must obtain both the permission of the trial court and the Law Guardian Program Office.

c) At the conclusion of a permanency planning hearing, you should submit your voucher. These matters are viewed by the LGIV as cases not yet disposed of, *i.e.*, interim vouchers. Accordingly, in order to submit these vouchers, you will be required to obtain permission from the Law Guardian Program Office.

d) Primary Day vouchers are to be submitted within 45 days of the date you appeared as Primary. In the event that you are submitting a voucher that is more than 45 days after the date you

appeared as Primary, you will be required to submit an affirmation stating that no prior claim has been made nor has payment been received for the services rendered and explaining the reason for the delay. In these instances, you will be prompted by the LGIV to prepare and complete an affirmation.

### 3. **Auditing of Vouchers**

All vouchers are subject to audit before and after payment.

### 4. **Supplemental Vouchers**

With the prior approval of the judge presiding, a supplemental voucher may be filed when additional legal services are required.

### 5. **Cases Transferred to IDV court**

Cases that start in Family Court and are transferred to IDV court are regarded as separate proceedings, requiring preparation and submission of separate vouchers.

### 6. **Status Inquiry**

For panel members serving in the 9<sup>th</sup> and 10<sup>th</sup> Judicial Districts, if you wish to inquire as to the status of payment for a voucher which you believe is overdue, please check first with the trial court to ascertain if the voucher has been forwarded to this office.

### 7. **Appeals**

Please note that a trial court action and a subsequent appeal are regarded as separate proceedings, requiring preparation and submission of separate vouchers. For all appeal vouchers **under \$2,500.00**, you must include the order of assignment (if any), copies of all briefs and motion papers filed with the courts as well as copies of all court orders rendered in the case and receipts for expenses incurred. For all claims **over \$4,400.00**, this office requires that you submit a duplicate copy of the original appeals voucher, and all of the supporting materials including the brief, attached to the original voucher. Additionally, an affirmation of extraordinary circumstances is required for any voucher requesting payment in excess of **\$4,400.00**.

**PLEASE NOTE:** Instructions for the preparation and submission of your online vouchers can be found in the Law Guardian Internet Voucher Manual.

## **E. Experts**

### **1. 22 NYCRR Part 680 Mental Health Professionals Panel**

Effective July 1, 2008, pursuant to 22 NYCRR Part 680, the Mental Health Professionals Panel was established to assure that the court and parties have access to qualified mental health professionals. A court may appoint a mental health professional or professionals to evaluate adults and children in any case involving custody and visitation, delinquency, persons in need of supervision, child abuse and neglect, termination of parental rights, family offense, and adoption wherein compensation is paid privately or pursuant to Judiciary Law § 35 or County Law article 18-B (see 22 NYCRR § 680.5). Please review and familiarize yourself Part 680 (see Table of Contents, Chapter V - Administrative Policies and Procedures (b) (1).)

Please make sure that you have a copy of the *Mental Health Professionals Resource Directory* as this handbook will be the list from which the court may appoint a mental health professional pursuant to 22 NYCRR § 680.5.

### **2. Procedures to be followed in Family Court**

a. Upon obtaining permission from the trial court judge for the appointment of an expert interpreter, social worker, investigator, psychiatrist or psychologist and the assent of the expert, an order, pursuant to County Law § 722-c and Judiciary Law § 35, should be prepared by the law guardian including the name and full address of the proposed expert, and submitted to the court. With the name and address of the expert on the order, this will enable us to provide the expert with the appropriate voucher. For a sample order, see Table of Contents, Chapter V - Administrative Policies and Procedures (b) (2).\_\_

b. After the order is signed, **a copy should be forwarded to this office.** In Family Court cases, the order should be structured to fairly apportion the expense of the experts among the parties where they have the means, or between the County/City (County Law § 722-c) for the adult litigants in the case of indigents and the State (Judiciary Law § 35) only for the evaluation of the children.

c. Experts are to bill the State (for children) on a JC-2020 voucher.

d. Experts are to bill the County/City (for adults) on a 722-c voucher.

e. At the conclusion of the expert's role in the case, the expert or the attorney for the child should submit to the judge the completed expert voucher (JC-2020) for a signature and forward it to this office.

### **3. Procedures to be followed in Supreme Court**

a. Upon obtaining permission from the trial court judge for the appointment of an expert interpreter, social worker, investigator, psychiatrist or psychologist and the assent of the expert, an order, pursuant to Judiciary Law § 35, should be prepared by the attorney including the name and full address of the proposed expert, and submitted to the court. For a sample order, see Table of Contents, Chapter V - Administrative Policies and Procedures (b) (4).\_\_

b. Experts are to bill the State (for both adults and children) on a JC-2020 voucher.

c. If the court determines that the parties are financially unable to pay for the cost of the expert services, it will order them at the expense of the State.

d. Only in situations where the court determines that one of the parties has the financial means to pay for cost of the expert services, should there be an apportionment between the party with the financial means and the State.

### 3. Compensation

The Chief Administrator of the Courts has adopted the following hourly rates as guidelines for payment of non-lawyer professionals under Judiciary Law § 35 and County Law § 722-c:

Psychiatrist	125.00
Certified Psychologist	90.00
Physician	200.00
Certified Social Worker	45.00
Licensed Investigator	32.00

Before preparing the order, the attorney should consult with the expert to obtain the best possible estimate of the time necessary for the expert to perform the necessary service. This will enable the attorney to estimate the cost of the service. In the event that a greater expenditure of time is required than originally anticipated, the mental health professional may apply to the court for additional fees in excess of the sum set forth in the order (see 22 NYCRR § 680.6). The court should then issue a Supplemental Order. Only upon a written showing of “extraordinary circumstances” will compensation be awarded in excess of the statutory maximum (\$300/\$1000).

The Law Guardian Program is not authorized to pay for expert services to participants in a proceeding other than the client, or for services unrelated to the client's representation, such as treatment or counseling. The attorney for the child should not pay the experts directly.

If you have any questions regarding the guidelines and requirements as set forth above, please feel free to contact the Law Guardian Office.

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At a Term of the Family Court held in and for the County of \_\_\_\_\_ at the Courthouse located at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

P R E S E N T:

Hon. \_\_\_\_\_  
Judge of the Court

-----x

Index/Docket No.

**ORDER APPOINTING MENTAL HEALTH PROFESSIONAL**

-----x

IT IS HEREBY ORDERED , that \_\_\_\_\_, whose office is located at \_\_\_\_\_ and whose telephone number is \_\_\_\_\_, is hereby appointed to conduct a forensic evaluation in the above-captioned case and is to examine the following persons:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____
_____	_____

and to interview any extended family members or persons affiliated with either party's household, if deemed relevant, and to submit a report to the court *within 90 days from the date of this Order* addressing the following special issues:

- |  |   |
|--|---|
| _____ physical custody/parenting time              | _____ mental illness                    |
| _____ decision making _____ relocation             |   |
| _____ domestic violence                            | _____ interference with parental rights |
| _____ substance abuse _____ grandparent visitation |   |
| _____ other (specify): _____                       |   |

and to appear and testify if so directed by the court and it is further

ORDERED, that upon the request of the evaluator, absent an order limiting such disclosure, the parties shall provide releases such that the evaluator may speak with any healthcare professional, therapist, or school personnel and procure any other records, reports, or material, relevant to the parties or child(ren) that the evaluator believes will be of assistance in conducting the evaluation; and it is further

ORDERED, that the appointed mental health professional is not to delegate components of the evaluation to any individual without prior approval of the court; and it is further

ORDERED, that counsel to the parties shall provide copies of any and all documents, papers or other materials requested by the evaluator and shall simultaneously furnish those materials to opposing counsel and counsel for the child(ren) (if any); and it is further

ORDERED, that neither party's counsel, nor the counsel for the child(ren), shall have any contact with the evaluator, except with regard to scheduling, payment issues and in exchanging of documents as provided above; and it is further

ORDERED, that if the evaluator determines that exigent circumstances exist requiring court intervention, the evaluator shall also notify counsel for the parties and the counsel for the child(ren); and it is further

ORDERED, that the evaluator shall include in his/her report a list of all documents and persons consulted; and it is further

ORDERED, that the report shall be submitted to the court, the counsel for the parties, and counsel for the child(ren). The report shall be shown to the parties. However, copies shall not be provided to the parties absent court order; and it is further

ORDERED, upon receipt of a discovery request pursuant to Article 31 of the Civil Practice Law and Rules after submission to the court and counsel of the evaluator's report, the evaluator shall make available to the court and counsel for all parties, including counsel for the child(ren), a copy of all underlying data and notes utilized in preparation of the final report, subject to further order of the court prohibiting or regulating the manner of the disclosure of these materials; and it is further

ORDERED, the evaluator  shall  shall not make a recommendation to the court as to which parent ultimately should have custody of the child(ren) and further  shall  shall not make a recommendation as to the other specific issues to be addressed in the evaluation; and it is further

ORDERED, that the parties are to contact the evaluator within one week from the date of this Order to commence the evaluation. In addition, the evaluator's retainer shall be paid within ten (10) business days of the date of this Order; and it is further

**One (1) of the following:**

**I. [For Use In Private Pay Cases]**

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the petitioner shall pay \_\_\_\_\_ % of the evaluator's fees, and the respondent shall pay \_\_\_\_\_ % of the evaluator's fees, including an initial retainer in the sum of \$ \_\_\_\_\_, subject to reallocation at trial; and it is further

ORDERED, that the cap on the forensic evaluation ordered is not to exceed a rate of \$\_\_\_\_ per hour, to a maximum of \$ \_\_\_\_\_. However, if the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice for additional compensation prior to the expenditure of time, subject to reallocation at trial; and it is further

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), detailed bills of services rendered.

If the evaluator requires the parties to enter into a written retainer agreement, the agreement shall not contain any material terms that conflict with the provisions of this order.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

**II. [For Use When All Parties are Indigent]**

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, and being satisfied that the litigants are financially unable to pay the costs of the forensic services provided for herein, compensation for said forensic evaluations, and any court appearances in connection therewith, shall be paid proportionately to the ratio of adults seen and evaluated (Article 18-B, Section 722-C of the County Law) and the children seen and evaluated (Section 35 of the Judiciary Law), at a rate not to exceed \$ \_\_\_\_\_ per hour to a maximum amount of \$ \_\_\_\_\_.

The court is directing that a total of \_\_\_\_\_ adults shall be evaluated and a total of \_\_\_\_\_ children shall be evaluated, and therefore payment shall be \_\_\_\_\_% pursuant to the County Law (adults) and \_\_\_\_\_% pursuant to the Judiciary Law (children). The institutional office representing the child is directed to bear \_\_\_\_\_% of the costs of the forensic evaluation provided for herein.

A finding of extraordinary circumstances has been made by the Court to warrant compensation to the forensic evaluator in excess of the statutory maximum (\$1,000).

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), an itemization of services rendered.

However, if the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice to the court for additional compensation prior to the expenditure of time.

### III. [For Use In Mixed Indigent/Private Pay Cases]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, and the court having made appropriate inquiry into the financial status of the parties, and the court having determined that the petitioner/respondent is financially unable to pay his/her proportionate share of the costs of the forensic services provided for herein; it is further

ORDERED, said petitioner's/respondent's proportionate share shall be paid pursuant to Article 18-B, Section 722-C, of the County Law. (Include if applicable): [Having found that the moneyed party is not able to bear the full cost of having the child/children seen and evaluated; it is ORDERED, that the cost of the child's/children's evaluation(s) shall be paid pursuant to Section 35 of the Judiciary Law]

*(Alternatively: if the child/children are represented by an institutional provider)*

[The institutional office representing the child is directed to bear the proportionate share as specified below.]

ORDERED, that the cap on the forensic evaluation ordered is not to exceed a rate of \$ \_\_\_\_\_ per hour, to a maximum of \$ \_\_\_\_\_. The court is directing that a total of \_\_\_\_\_ adults shall be evaluated and a total of \_\_\_\_\_ children shall be evaluated, and therefore payment shall be \_\_\_\_\_% to the petitioner, \_\_\_\_\_% to the respondent, \_\_\_\_\_% to the institutional provider; \_\_\_\_\_% pursuant to County Law and \_\_\_\_\_% pursuant to Judiciary Law, subject to reallocation at trial; it is further

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties detailed bills of services rendered.

If the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court or the statutory maximum, then he/she shall make a supplemental request on notice for additional compensation prior to the expenditure of time. Only upon a written showing of extraordinary circumstances will compensation be awarded in excess of the statutory maximum.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

Date: \_\_\_\_\_

**E N T E R:**

Judge

\_\_\_\_\_

Sample Order

At a Term of the Family Court of the State of New York, Part \_\_\_\_\_, held in and for the County of \_\_\_\_\_, at \_\_\_\_\_, on \_\_\_\_\_ 200 , \_\_\_\_\_ N.Y.

P R E S E N T:

Hon. \_\_\_\_\_  
JUDGE OF THE FAMILY COURT

-----x  
In the Matter of a Proceeding for Visitation  
Under Article 6 of the Family Court Act

Petitioner, \_\_\_\_\_  
Docket No. \_\_\_\_\_

-against-

**ORDER FOR OBSERVATION  
AND EVALUATION**

Respondent. \_\_\_\_\_  
-----x

After appropriate inquiry into the financial status of \_\_\_\_\_ and being satisfied that the party/parties is/are financially unable to pay any of the costs of the observation and evaluation,

Upon the application of \_\_\_\_\_, Esq., made on the \_\_\_\_ day of \_\_\_\_\_ 200 , it is

ORDERED that \_\_\_\_\_, whose office is located at \_\_\_\_\_ and whose telephone number is \_\_\_\_\_, is herein appointed to conduct an observation and evaluation of the \_\_\_\_\_ and child(ren) as well as meetings with the following:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____

and to submit a report to the Court by \_\_\_\_\_, 200 , and to appear and testify if so directed by the Court, it is further

ORDERED that, upon receipt of a copy of this order, the parties are to telephone Mr./Ms. \_\_\_\_\_, to schedule appointments and cooperate in all respects with the evaluation. Mr./Ms. \_\_\_\_\_ shall meet with each of the parties and observe a maximum of three one hour interactions between the child(ren) and the \_\_\_\_\_, it is further

ORDERED that compensation for said observation and evaluation, preparation of written report, and any court appearances shall be paid proportionately to the ratio of adults observed and evaluated (Article 18-B, Section 722-C of the County Law) and the child(ren) observed and evaluated (Section 35 of the Judiciary Law) at an hourly rate not to exceed \$\_\_\_\_\_ per hour, to a maximum amount of \$\_\_\_\_\_.

If it is anticipated that the preparation of the report may result in the maximum limit being exceeded, then a supplemental request will be made to the Court for additional compensation prior to the expenditure of time. If it is anticipated that the evaluation may exceed the cap previously set by this Court or, the statutory maximum (\$1,000), then a supplemental request will be made to the Court for additional compensation. Only upon a written showing of “extraordinary circumstances” will compensation be awarded in excess of the statutory limits.

The report shall be submitted to the Court, the attorney(s) for the child(ren), and counsel for the parties. The report shall be shown to parties. However, copies should not be provided absent court order.

Dated: \_\_\_\_\_

ENTER

\_\_\_\_\_  
Hon.  
JUDGE OF THE FAMILY COURT

Sample Order

At a Term of the Supreme Court held in and for the County of \_\_\_\_\_ at the Courthouse located at

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

P R E S E N T:

Hon. \_\_\_\_\_  
Justice of the Court

-----x

Index/Docket No.

**ORDER APPOINTING MENTAL HEALTH PROFESSIONAL**

-----x

IT IS HEREBY ORDERED , that \_\_\_\_\_, whose office is located at \_\_\_\_\_ and whose telephone number is \_\_\_\_\_, is hereby appointed to conduct a forensic evaluation in the above-captioned case and is to examine the following persons:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____
_____	_____

and to interview any extended family members or persons affiliated with either party's household, if deemed relevant, and to submit a report to the court *within 90 days from the date of this Order* addressing the following special issues:

- |                                       |   |
|---------------------------------------|---|
| _____ physical custody/parenting time | _____ mental illness                    |
| _____ decision making                 | _____ relocation                        |
| _____ domestic violence               | _____ interference with parental rights |
| _____ substance abuse                 | _____ grandparent visitation            |
| _____ other (specify): _____          |   |

and to appear and testify if so directed by the court and it is further

ORDERED, that upon the request of the evaluator, absent an order limiting such disclosure, the parties shall provide releases such that the evaluator may speak with any healthcare professional, therapist, or school personnel and procure any other records, reports, or material, relevant to the parties or child(ren) that the evaluator believes will be of assistance in conducting the evaluation; and it is further

ORDERED, that the appointed mental health professional is not to delegate components of the evaluation to any individual without prior approval of the court; and it is further

ORDERED, that counsel to the parties shall provide copies of any and all documents, papers or other materials requested by the evaluator and shall simultaneously furnish those materials to opposing counsel and counsel for the child(ren) (if any); and it is further

ORDERED, that neither party's counsel, nor the counsel for the child(ren), shall have any contact with the evaluator, except with regard to scheduling, payment issues and in exchanging of documents as provided above; and it is further

ORDERED, that if the evaluator determines that exigent circumstances exist requiring court intervention, the evaluator shall also notify counsel for the parties and the counsel for the child(ren); and it is further

ORDERED, that the evaluator shall include in his/her report a list of all documents and persons consulted; and it is further

ORDERED, that the report shall be submitted to the court, the counsel for the parties, and counsel for the child(ren). The report shall be shown to the parties. However, copies shall not be provided to the parties absent court order; and it is further

ORDERED, upon receipt of a discovery request pursuant to Article 31 of the Civil Practice Law and Rules after submission to the court and counsel of the evaluator's report, the evaluator shall make available to the court and counsel for all parties, including counsel for the child(ren), a copy of all underlying data and notes utilized in preparation of the final report, subject to further order of the court prohibiting or regulating the manner of the disclosure of these materials; and it is further

ORDERED, the evaluator  shall  shall not make a recommendation to the court as to which parent ultimately should have custody of the child(ren) and further  shall  shall not make a recommendation as to the other specific issues to be addressed in the evaluation; and it is further

ORDERED, that the parties are to contact the evaluator within one week from the date of this Order to commence the evaluation. In addition, the evaluator's retainer shall be paid within ten (10) business days of the date of this Order; and it is further

**One (1) of the following:**

**I. [For Use In Private Pay Cases]**

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the plaintiff shall pay \_\_\_\_\_ % of the evaluator's fees, and the defendant shall pay \_\_\_\_\_ % of the evaluator's fees, including an initial retainer in the sum of \$ \_\_\_\_\_, subject to reallocation at trial; and it is further

ORDERED, that the cap on the forensic evaluation ordered is not to exceed a rate of \$ \_\_\_\_ per hour, to a maximum of \$ \_\_\_\_\_. However, if the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice for additional compensation prior to the expenditure of time, subject to reallocation at trial; and it is further

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), detailed bills of services rendered.

If the evaluator requires the parties to enter into a written retainer agreement, the agreement shall not contain any material terms that conflict with the provisions of this order.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

**II. [For Use When All Parties are Indigent]**

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, and being satisfied that the litigants are financially unable to pay the costs of the forensic services provided for herein, compensation for said forensic evaluations, and any court appearances in connection therewith, shall be paid pursuant to Section 35 of the Judiciary Law, at a rate not to exceed \$ \_\_\_\_\_ per hour to a maximum amount of \$ \_\_\_\_\_.

A finding of extraordinary circumstances has been made by the Court to warrant compensation to the forensic evaluator in excess of the statutory maximum (\$1,000).

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), an itemization of services rendered.

However, if the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice to the court for additional compensation prior to the expenditure of time.

**III. [For Use In Mixed Indigent/Private Pay Cases]**

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the plaintiff shall pay \_\_\_\_\_% of the evaluator's fees, and the defendant shall pay \_\_\_\_\_% of the evaluator's fees, including an initial retainer in the sum of \$ \_\_\_\_\_, subject to reallocation at trial; and it is further

ORDERED, that the court having made appropriate inquiry into the financial status of the parties and the court having determined that plaintiff/defendant, is financially unable to pay his/her proportionate share of the costs of the forensic services provided for herein; it is further

ORDERED, said plaintiff's/defendant's proportionate share shall be paid pursuant to Section 35 of the Judiciary Law. (Include if applicable): [Having found that the moneyed party is not able to bear the full cost of having the child/children seen and evaluated; it is ORDERED, that the cost of the child's/children's evaluation(s) shall be paid pursuant to Section 35 of the Judiciary Law]

ORDERED, that the cap on the forensic evaluation is not to exceed a rate of \$ \_\_\_\_\_ per hour, to a maximum of \$ \_\_\_\_\_. The court is directing that a total of \_\_\_\_\_ adults shall be evaluated and a total of \_\_\_\_\_ children shall be evaluated. The court is directing that the plaintiff/defendant shall pay \_\_\_\_\_% of the evaluator's fee pursuant to Section 35 of the Judiciary Law and \_\_\_\_\_% of the evaluator's fee shall be paid pursuant to Section 35 of the Judiciary Law, subject to reallocation at trial; it is further

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties detailed bills of services rendered.

If the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court or the statutory maximum, then he/she shall make a

supplemental request on notice for additional compensation prior to the expenditure of time. Only upon a written showing of extraordinary circumstances will compensation be awarded in excess of the statutory maximum.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

Dated: \_\_\_\_\_

**E N T E R:**

Justice \_\_\_\_\_

Sample Order

At a Term of the Supreme Court of the State of New York, Part \_\_\_\_\_, held in and for the County of \_\_\_\_\_, at

\_\_\_\_\_  
N.Y. \_\_\_\_\_, on \_\_\_\_\_ 200 ,

P R E S E N T:

Hon. \_\_\_\_\_  
JUSTICE OF THE SUPREME COURT

-----x  
In the Matter of a Proceeding for Visitation  
Under Article 6 of the Family Court Act

Plaintiff, Index No.

-against-

**ORDER FOR OBSERVATION  
AND EVALUATION**

Defendant.  
-----x

After appropriate inquiry into the financial status of \_\_\_\_\_ and being satisfied that the party/parties is/are financially unable to pay any of the costs of the observation and evaluation,

Upon the application of \_\_\_\_\_, Esq., made on the \_\_\_\_ day of \_\_\_\_\_ 200 , it is

ORDERED that \_\_\_\_\_, whose office is located at \_\_\_\_\_ and whose telephone number is \_\_\_\_\_, is herein appointed to conduct an observation and evaluation of the \_\_\_\_\_ and child(ren) as well as meetings with the following:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____

and to submit a report to the Court by \_\_\_\_\_, 200 , and to appear and testify if so directed by the Court, it is further

ORDERED that, upon receipt of a copy of this order, the parties are to telephone Mr./Ms. \_\_\_\_\_, to schedule appointments and cooperate in all respects with the evaluation. Mr./Ms. \_\_\_\_\_ shall meet with each of the parties and observe a maximum of three one hour interactions between the child(ren) and the \_\_\_\_\_, it is further

ORDERED that compensation for said observation and evaluation, preparation of written report, and any court appearances shall be paid pursuant to Section 35 of the Judiciary Law at an hourly rate not to exceed \$ \_\_\_\_ per hour, to a maximum amount of \$ \_\_\_\_.

If it is anticipated that the preparation of the report may result in the maximum limit being exceeded, then a supplemental request will be made to the Court for additional compensation prior to the expenditure of time. If it is anticipated that the evaluation may exceed the cap previously set by this Court or, the statutory maximum (\$300), then a supplemental request will be made to the Court for additional compensation. Only upon a written showing of “extraordinary circumstances” will compensation be awarded in excess of the statutory limits.

The report shall be submitted to the Court, attorney for the child, and counsel for the parties. The report shall be shown to parties. However, copies should not be provided absent court order.

Dated: \_\_\_\_\_

ENTER

\_\_\_\_\_  
Hon.  
JUSTICE OF THE SUPREME COURT

## **OBTAINING TRIAL TRANSCRIPTS**

To obtain transcripts for use in representing a client in a trial court or on appeal, a law guardian must obtain a Minute Order Form from the office of the Chief Clerk of your local Family Court, and then take the following steps:

1. The law guardian must complete the top portion of the Minute Order Form and present the form to the Family Court for the judge's authorization.
2. The Family Court will then retain a copy of the form and return the remaining copies to the law guardian for transmittal to the court reporter.
3. Upon receiving the form with the judge's endorsement, the court reporter will prepare two certified copies of the transcript, file one copy with the Family Court Clerk, and deliver the other copy to the law guardian.
4. When the transcript is delivered, the law guardian will endorse the appropriate portion of the form.
5. The reporter will retain a copy of the form and forward the remaining copies, together with a completed New York State Standard Voucher (AC92), to the Law Guardian Program office for review and payment. Copies of the Standard Voucher are available from the office of the Chief Clerk of your local Family Court.

The expense involved in ordering transcripts from court reporters is a state expense unless the court has determined that the parties, most particularly the parents, are responsible for the cost.

Utilization of these forms will make it unnecessary for law guardians to incur out-of-pocket expenses when ordering transcripts.

A copy of the Law Guardian Minute Order Form and the New York State Standard Vouchers will be found in the Forms section of this Handbook.

## **OBTAINING MECHANICALLY RECORDED TRANSCRIPTS**

To request a transcript of a mechanically recorded proceeding, the law guardian must complete a Transcript Request Form and a Standard Voucher.

Completed forms are to be submitted to the Part Clerk with the Order for Approval of Transcript of Record.

Part Clerks will then attach the Transcript Request Form, Voucher and Order and deliver them to the appropriate clerks office.

A copy of the Transcript Request Form, the Voucher for Court Reporter Services and the Order for Approval of Transcript of Record will be found in the Law Guardian Forms section of this Handbook.

## **RECERTIFICATION PROCEDURE**

The Panel for each county is recertified on a yearly basis. The law guardian designation remains in effect for only one year [22 NYCRR § 679.(7)]. As part of an annual evaluative procedure, prior to recertification, the Law Guardian Advisory Committee for each Judicial District shall make inquiries as to the performance of each law guardian within that Judicial District. The committees will concern themselves with each attorney's knowledge of the law, legal judgment, preparation of cases, strength of advocacy, punctuality and candor with the court, as well as courtesy to litigants and counsel. The Committee will decide on an annual basis the attorneys it recommends to the Presiding Justice of the Appellate Division, Second Department, for recertification [22NYCRR 679.(8)].

At the end of each summer, a letter and recertification application will be sent to each law guardian inquiring whether he/she wishes to continue on the panel for the upcoming year. A copy of the letter and recertification application will be found in the Forms section of this Handbook.

**TRAINING AND EDUCATION**

**NEW YORK RULES OF COURT  
SUPREME COURT, APPELLATE DIVISION, ALL DEPARTMENTS  
Mandatory Continuing Legal Education Program  
for Attorneys in the State of New York**

**Part 1500**

**SUBPART B. MANDATORY CONTINUING  
LEGAL EDUCATION FOR NEWLY  
ADMITTED ATTORNEYS**

**1500.10 Application**

- (a) The requirements of this Subpart shall apply to all newly admitted attorneys, who are not exempt from these requirements pursuant to § 1500.5(b), during the first two years after their admission to the Bar of the State of New York.
- (b) A newly admitted attorney is an attorney who has successfully passed the New York State Bar examination administered by the State Board of Law Examiners and who becomes duly admitted to the practice of law in New York after October 1, 1997.
- (c) Attorneys who have been engaged in the practice of law in another state, the District of Columbia, any territory of the United States or any foreign jurisdiction, for the five (5) years immediately preceding admission to the New York Bar, shall not be deemed newly admitted attorneys for the purposes of this Subpart, and shall be required to comply with the requirements of Subpart C to the extent they are applicable.

**1500.11 Statement of Purpose**

Mandatory Continuing Legal Education for Newly Admitted Attorneys in the State of New York is a transitional continuing legal education program designed to help recent graduates and newly admitted attorneys become competent to deliver legal services at an acceptable level of quality as they enter practice and assume primary client service responsibilities. The Program seeks to help the newly admitted attorney establish a foundation in certain practical skills, techniques and procedures, which are and can be essential to the practice of law, but may not have been adequately addressed in law school. It includes courses targeting ethics and professionalism, skills, practice management and areas of professional practice.

**1500.12 Minimum Requirements**

- (a) **Credit Hours.** Each newly admitted attorney shall complete a minimum of 32 credit hours of accredited transitional education within the first two (2) years of the date of admission to the Bar. Sixteen (16) accredited hours shall be completed in each of the first two (2) years of admission to the Bar as follows:
- Three (3) hours of ethics and professionalism;
  - Six (6) hours of skills; and
  - Seven (7) hours of practice management and areas of professional practice.

Ethics and professionalism, skills, law practice management and areas of professional practice are defined in § 1500.2. The ethics and professionalism and skills components may be intertwined with other courses.

(b) **Carry-Over Credit.** Except as provided in section 1500.13(b)(2), a newly admitted attorney who accumulates more than the 16 hours of credit required in the first year of admission to the Bar may carry over to the second year of admission to the Bar a maximum of eight (8) credits. Six (6) credits in excess of the 16-hour requirement in the second year of admission to the Bar may be carried over to the following biennial reporting cycle to fulfill the requirements of Subpart C. Ethics and professionalism credit may not be carried over.

(c) **Accredited Courses or Programs Only.** Transitional continuing legal education credit will be granted only for courses and programs approved as such by the CLE Board, except as provided in subdivision (d). No transitional continuing legal education course or program consisting of nontraditional formats, such as self-study, correspondence work, videotapes, audiotapes, motion picture presentations or on-line programs may be accepted for credit without prior permission from the CLE Board, except as provided in the Regulations and Guidelines.

(d) **Other Jurisdictions.** Transitional continuing legal education courses approved by another state, the District of Columbia, any territory of the United States or any foreign jurisdiction with requirements meeting the standards adopted by the CLE Board shall count toward the newly admitted attorney's compliance with New York's transitional CLE Program requirements in accordance with the Regulations and Guidelines established by the CLE Board and this Part.

(e) **Post-Graduation/Pre-Admission.** A maximum of 16 credit hours of approved transitional CLE courses taken from the date of graduation from law school up through the date of admission to the New York Bar may be applied toward a newly admitted attorney's first-year CLE Program requirements. Credit hours in excess of 16 may not be carried over and applied toward the second-year CLE requirement.

(f) **Obligations of Attorneys exempt from the Program Requirements.**

(1) An attorney who is exempt from the requirements of this Program and who is required to comply with the continuing legal education requirements of another jurisdiction shall comply with those requirements and shall certify to this compliance on the attorney's biennial attorney registration statement.

(2) An attorney who is exempt from the requirements of this Program and who is not required to comply with the continuing legal education requirements of another jurisdiction shall so certify on the attorney's biennial attorney registration statement.

(3) An attorney who is exempt from the requirements of this Program and who thereafter ceases to be exempt and commences the practice of law in New York during the first two years after admission to the Bar shall be required to complete by the end of those two years 1.5 credit hours of accredited continuing legal education as set forth in section 1500.12(a), in any combination of categories set forth in said section, for each full month of the two-year period during which the attorney practices law in New York.

(4) An Attorney who permanently ceases to practice law in New York while commencing or continuing the practice of law in another jurisdiction shall be exempt from the requirements of this Program for the year in which the permanent cessation from New York practice occurred, and shall comply with the requirements of any jurisdiction in which the attorney practices law during that year.

### **1500.13 Reporting Requirements**

(a) **Attorney Obligations.** Each newly admitted attorney subject to New York's transitional continuing legal education requirements shall retain the Certificate of Attendance for each

approved transitional education course or program for at least four (4) years from the date of the course or program.

(b) **Certification.**

(1) Except as otherwise authorized by this Part, each newly admitted attorney subject to New York's transitional continuing legal education requirements is required to certify along with the submission of his or her biennial attorney registration statement that the attorney has satisfactorily completed 32 credit hours of transitional continuing legal education (16 credit hours in the first year of admission to the Bar, 16 credit hours in the second year of admission to the Bar) and that the attorney has retained the Certificates of Attendance or other documentation required by the CLE Board for the accredited courses or programs.

(2) A newly admitted attorney who is required to file his or her biennial attorney registration statement prior to completing the second year of admission to the Bar shall certify the actual number of credit hours of transitional continuing legal education completed at the time the statement is filed. The attorney shall remain responsible for completing the 16 second-year credit hours of transitional continuing legal education by the end of that second year after admission, but may apply 12 of the 16 credit hours to fulfilling the requirements of Subpart C as set forth in § 1500.22(b)(3).

**1500.14 Waivers or Modifications**

(a) A newly admitted attorney may apply in writing to the CLE Board for a waiver or modification of Program requirements based upon extenuating circumstances preventing the newly admitted attorney from complying with the requirements, in accordance with the Regulations and Guidelines established by the CLE Board and this Part.

(b) Requests for extensions of time in which to complete Program requirements based upon extenuating circumstances shall be made pursuant to the procedures contained in the Regulations and Guidelines and shall not be granted for a period of greater than 90 days absent special circumstances. If an extension is granted, the period of time by which a newly admitted attorney must complete the mandatory continuing legal education requirements applicable to all attorneys as set forth in Subpart C remains the same.

**1500.15 Noncompliance**

The names of newly admitted attorneys who fail to comply with transitional continuing legal education requirements will be submitted to the Appellate Division for appropriate action.

**1500.16 Effective Date**

Mandatory Continuing Legal Education for Newly Admitted Attorneys in the State of New York shall become effective on October 1, 1997.

**SUBPART C. MANDATORY CONTINUING LEGAL EDUCATION  
FOR ATTORNEYS OTHER THAN NEWLY ADMITTED ATTORNEYS**

**1500.20 Application**

The requirements of this Subpart shall apply to all attorneys who have been duly admitted to the practice of law in New York, are not exempt from these requirements pursuant to § 1500.5(b), and are not newly admitted attorneys subject to the requirements of Subpart B of this Part.

**1500.21 Statement of Purpose**

It is of utmost importance to members of the Bar and to the public that attorneys maintain their professional competence by continuing their legal education throughout the period of their active practice of law. This Program establishes the minimum requirements for continuing legal education for attorneys other than newly admitted attorneys in New York State.

**1500.22 Minimum Requirements**

(a) **Credit Hours.** Each attorney shall complete a minimum of 24 credit hours of accredited continuing legal education each biennial reporting cycle in ethics and professionalism, skills, law practice management or areas of professional practice, at least four (4) credit hours of which shall be in ethics and professionalism. Ethics and professionalism, skills, law practice management and areas of professional practice are defined in § 1500.2. The ethics and professionalism components may be intertwined with other courses.

(b) **Biennial Reporting Cycle.**

(1) The biennial reporting cycle shall be the two-year period between the dates of submission of the attorney's biennial registration statement.

(2) An attorney shall comply with the requirements of this Subpart commencing from the time of the filing of the attorney's biennial attorney registration statement in the second calendar year following admission to the Bar.

(3) A newly admitted attorney whose transitional two year post-Bar admission period has not been completed as of the last day the attorney registration statement in paragraph (2) is required to be filed may apply 12 credit hours of the second-year accredited transitional education credits required in section 1500.12(a) to fulfilling the requirements of this Subpart.

(c) **Carry-Over Credit.** An attorney who accumulates more than the 24 hours of credit in any one biennial reporting cycle may carry over a maximum of six (6) credits to the next biennial reporting cycle.

(d) **Course or Program Formats.** Continuing legal education courses or programs may include traditional live classroom or audience settings; teleconferences; video conferences; satellite transmissions; videotapes; audiotapes; motion picture presentations; interactive video instruction; activities electronically transmitted from another location; self-study; correspondence work; and on-line computer courses.

(e) **Credit for Speaking and Teaching Activities.** Credit may be earned through speaking, teaching or participating in a panel in an accredited CLE program. Where teaching is done in tandem or by panel, teaching credit shall be given to all participants.

- (f) **Credit for Teaching Law School Classes.** Credit may be earned through teaching in an ABA-accredited law school as may be permitted pursuant to the Regulations and Guidelines of the CLE Board.
- (g) **Credit for Attending Law School Courses.** Credit may be earned for attending courses at an ABA-accredited law school after admission to practice in New York provided (i) the attorney is officially registered for the course, and (ii) the attorney completed the course as required by the terms of registration.
- (h) **Credit for Judging Law Competitions.** Credit may be earned for preparing students for and judging law competitions, mock trials and moot court arguments, including those in high school, pursuant to the Regulations and Guidelines of the CLE Board.
- (i) **Credit for Publications.** Credit may be earned, as may be permitted pursuant to the Regulations and Guidelines of the CLE Board, for legal research-based writing upon application to the CLE Board, provided the activity (i) produced material published or to be published, in print or electronically, in the form of an article, chapter or book written, in whole or in substantial part, by the applicant, and ii) contributed substantially to the continuing legal education of the applicant and other attorneys.
- (j) **Credit for Performing Pro Bono Legal Services.** Credit may be earned for performing uncompensated legal services for clients unable to afford counsel pursuant to (a) assignment by a court; or (b) a program, accredited by the CLE Board, of a bar association, legal services provider or other entity. Credit shall be awarded pursuant to the Regulations and Guidelines of the CLE Board, provided that no more than six hours of CLE credit may be awarded in a two-year reporting period for performing pro bono legal services, and no more than one credit hour of CLE credit may be awarded for every six hours of legal work performed.
- (k) **Accredited Courses, Programs and Activities Only.** Continuing legal education credit will be granted only for courses, programs and activities approved by the CLE Board, except where credit is extended as provided in subdivision (m).
- (l) **Individual Course Approval.** An attorney seeking approval of a course or program that has not otherwise been approved shall apply to the CLE Board for approval in accordance with Board procedures. Such approval must be sought at least 60 days prior to the occurrence of the course or program, except in extenuating circumstances and only with prior permission of the Board.
- (m) **Other Jurisdictions.** Continuing legal education courses approved by another state, the District of Columbia, any territory of the United States or any foreign jurisdiction with requirements meeting the standards adopted by the CLE Board shall count toward the attorney's compliance with New York's CLE Program requirements in accordance with the Regulations and Guidelines established by the CLE Board and this Part.
- (n) **Obligations of Attorneys exempt from the Program Requirements.**
- (1) An attorney who is exempt from the requirements of this Program and who is required to comply with the continuing legal education requirements of another jurisdiction shall comply with those requirements and shall certify this compliance on the attorney's biennial attorney registration statement.
  - (2) An attorney who is exempt from the requirements of this Program and who is not required to comply with the continuing legal education requirements of another jurisdiction shall so certify on the attorney's biennial attorney registration statement.
  - (3) An attorney who is exempt from the requirements of this Program and who thereafter ceases to be exempt and commences the practice of law in New York during

a biennial reporting cycle shall be required to complete by the end of the reporting cycle one credit hour of accredited continuing legal education as set forth in section 1500.22(a), in any combination of categories set forth in said section, for each full calendar month of the biennial reporting cycle during which the attorney practices law in New York.

(4) An attorney who permanently ceases to practice law in New York while commencing or continuing the practice of law in another jurisdiction shall be exempt from the requirements of this Program for the reporting cycle in which the permanent cessation from New York practice occurred, and shall comply with the requirements of the jurisdiction in which the attorney practices law during that cycle.

### **1500.23 Reporting Requirements**

(a) **Attorney Obligations.** Each attorney subject to New York's continuing legal education requirements shall retain the Certificate of Attendance or other documentation required by the Board for each approved education course, program or activity for at least four (4) years from the date of the course, program or activity.

(b) **Certification.** Except as otherwise authorized by this Part, each attorney subject to New York's continuing legal education requirements is required to certify along with the submission of his or her biennial attorney registration statement that the attorney has satisfactorily completed 24 credit hours of continuing legal education for the current biennial reporting cycle and that the attorney has retained the Certificates of Attendance or other documentation required by the CLE Board for the accredited courses, programs or activities.

### **1500.24 Waivers or Modifications**

(a) An attorney may apply in writing to the CLE Board for a waiver or modification of Program requirements based upon extenuating circumstances preventing the attorney from complying with the requirements, in accordance with the Regulations and Guidelines established by the CLE Board and this Part.

(b) Requests for extensions of time in which to complete Program requirements based upon extenuating circumstances shall be made pursuant to the procedures contained in the Regulations and Guidelines and shall not be granted for a period of greater than 90 days absent special circumstances. If an extension is granted, the period of time by which the attorney must complete the mandatory continuing legal education requirements of the next biennial reporting cycle remains the same.

### **1500.25 Noncompliance**

The names of attorneys who fail to comply with continuing legal education requirements will be submitted to the Appellate Division for appropriate action.

### **1500.26 Effective Date and Transition**

The requirements of this Subpart shall become effective on December 31, 1998. Compliance with the certification requirement shall commence with biennial attorney registration statements filed on or after January 1, 2000, as follows:

(1) Attorneys who file their biennial registration statement in calendar year 2000 shall complete 12 credit hours of accredited continuing legal education as of the date of the filing in any combination of the categories set forth in § 1500.22(a). Attorneys who accumulate more than 12 credit hours at the time of this filing may carry over a maximum of six (6) credit hours to the next biennial cycle;

(2) Attorneys who file their biennial registration statement in calendar year 2001 must complete the full 24 credit hours of accredited continuing legal education as set forth in § 1500.22(a).

Approved CLE credits earned from January 1, 1998, may be applied toward fulfilling the requirements for the initial biennial reporting cycle.

## **LAW GUARDIAN PROGRAM**

### **APPELLATE DIVISION - SECOND JUDICIAL DEPARTMENT**

#### **CREDIT FOR CONTINUING LEGAL EDUCATION**

The Appellate Division Second Judicial Department is certified by the New York State Mandatory Continuing Legal Education Board as an accredited provider of continuing legal education courses and programs. Attendance at seminars conducted by the Law Guardian Program of the Appellate Division Second Judicial Department may be credited toward compliance with the state's CLE requirements as well as with the Appellate Division's rules on law guardian training and education.

In the event that a law guardian is unable to (personally) attend mandatory seminars, the training and education requirements of the Law Guardian Program may be satisfied by privately viewing a videotape of the seminars and submitting an affirmation to the law guardian office that the law guardian has viewed the tapes. A private viewing, however, will not entitle the law guardian to CLE credit.

In order to receive CLE credit for viewing a videotape of a law guardian seminar, it will be necessary to attend a scheduled viewing of the tape(s) at which time a proctor will be present. The materials which were distributed at the seminar will be provided.

**RELEVANT FORMS**



**INSTRUCTIONS FOR PREPARING VOUCHERS FOR  
ASSIGNED COUNSEL, PSYCHIATRISTS OR PHYSICIANS (JC 2020)**

Assigned Counsel, Psychiatrist or Physician must complete the numbered blocks on the face of the form as indicated below:

**Box 3. Payee ID** - Enter the nine digit federal social security number. If payment should be made to your firm for tax purposes, enter the firm's federal tax identification number here.

**Box 4. Payee name/address/city/state/zip code** - Enter full name and address, including zip code. If the business identification number is used in Box 3 above, enter the firm's name in the first payee name position and the individual's name in the second payee name position.

**(Un-numbered) Indicator-Dept./County** - Enter the County in which services were performed. This is limited to five spaces so use the first five letters of the County name.

**Box 5. Ref/Inv.No/Surname** - Enter the last name of the subject for whom the services were performed. This box is limited to twenty spaces. Use the Ref/Inv. date box below for the date(s) services were performed.

**Box 6. Nature of Proceeding** - Check appropriate box. For type of proceeding, indicate the statutory authority for payment. Check if court is original or appellate jurisdiction. (If you do not know the statute, this information will be provided by the court.)

**Box 7. Required Billing Information** - Indicate in items A through D, respectively, the type of service rendered, the judge's name, court docket index file number(s), and the period of service rendered.

**Box 8. Summary of Services Provided** - Enter the date(s), service description and dollar amount to be reimbursed. Enter the total fee being charged in the "Total Fee" box.

**Box 9. Certification** - The individual or person authorized to claim fees on behalf of the firm must sign and date. Enter the Social Security identification number only if different than box 3, payee identification number.

**Judge/Justice Making Assignment:**

1. Review entire form as submitted by court-appointed professional, including the statutory authority cited, for accuracy and completeness.
2. Indicate, in the appropriate box, whether more than one counsel, psychiatrist or physician has been assigned to this case.
3. Insure that the total fees claimed are within the guidelines established by Administrative Order of the Chief Administrator transmitted as Budget Bulletin Number 223. Adjust the total fee line as appropriate.
4. If acceptable, sign and complete box 10 for court use, including signature, date and county of assignment.
5. As soon as possible for prompt payment, submit the original and one file copy to the Appellate Division Administrative Office and retain one copy for the Court's file.

**Appellate Division Only:**

1. Enter all fiscal data, including originating agency, agency code liability date (normally the last date of service), Merchandise Invoice Received date (MIR), IRS Code, expenditure data and assignment of voucher number.
2. An employee authorized to approve fiscal documents must sign and date block 11, **For Appellate Division Use Only. Vouchers must be received by OSC within 22 days of the MIR date in order to avoid interest penalties.** The MIR Date is the date the voucher was received by the local court.



# STANDARD VOUCHER

Voucher No.

<b>1</b> Originating Agency	Originating Agency Code	Interest Eligible (Y/N)	<b>2</b> P-Contract
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Payment Date (MM) (DID) (YY) / /	OSC Use Only	Liability Date (MM) (DD) (YY) / /	
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<b>3</b> Payee ID	Additional	Zip Code	Route	Payee Amount	MIR Date (MM) (DID) (YY) / /
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<b>4</b> Payee Name (Limit to 30 spaces)	IRS Code	IRS Amount
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Payee Name (Limit to 30 spaces)	Stat. Type	Statistic	Indicator-Dept	Indicator-Statewide
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Address (Limit to 30 spaces)	<b>5</b> Ref/ Inv. No. (Limit to 20 spaces)
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Address (Limit to 30 spaces)	Ref/ Inv Date (MM) (DD) (YY) / /
------------------------------	-------------------------------------

City (Limit to 20 spaces)	(Limit 2 spaces) State	Zip Code	
---------------------------	------------------------	----------	--

<b>6</b> Purchase Order No. and Date	Description of Material/Service <small>If items are too numerous to be incorporated into the block below, use Form AC 93 and carry total forward.</small>	Quantity	Unit	Price	Amount

<b>7</b> Payee Certification: I certify that the above bill is just, true and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing, and that taxes from which the State is exempt are excluded.	Total	
→ _____ Payee's Signature in Ink	Discount % or continuation total	
_____ Title	Net	
Date	Name of Company	

FOR AGENCY USE ONLY				STATE COMPTROLLER'S PRE-AUDIT		
Merchandise Received	I certify that this voucher is correct and just, and payment is approved, and the goods or services rendered or furnished are for use in the performance of the official functions and duties of this agency.			Verified	Certified For Payment of Net Amount	
Date				Audited		
Page No.				Authorized Signature		By _____
By				Date		

Expenditure							Liquidation				
Cost Center Code				Object	Accum		Amount	Orig. Agency	PO/Contract	Line	F/P
Dept	Cost Center Unit	Var	Yr		Dept	Statewide					

Check if Continuation form is attached.

**FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF**

**LAW GUARDIAN/ASSIGNED COUNSEL  
REQUEST FOR TRANSCRIPT FROM MECHANICAL RECORDING**

**TO:** \_\_\_\_\_  
**SPECIAL PROJECTS CLERK**

I, \_\_\_\_\_, hereby request a transcript of the proceeding heard before  
Judge \_\_\_\_\_ on the date and for the case indicated below.

**In the Matter of:** \_\_\_\_\_ **Petitioner**  
\_\_\_\_\_ **Respondent**

**Date of hearing:** \_\_\_\_\_ **Docket Number:** \_\_\_\_\_

**Tape recorder counter numbers begin at** \_\_\_\_\_ **and end at** \_\_\_\_\_.

**ORIGINAL TRANSCRIPT TO BE SUBMITTED TO THE COURT.**

**COPY OF TRANSCRIPT TO BE FORWARDED TO:  
(Person requesting transcript:)**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_

**Date:** \_\_\_\_\_  
\_\_\_\_\_ **Signature**

**Transcript Received by:** \_\_\_\_\_ **on** \_\_\_\_\_

At a Term of the Family Court of the State of New York, Part \_\_\_\_ thereof, held in and for the County of \_\_\_\_\_ at \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_.

P R E S E N T:

Hon. \_\_\_\_\_  
JUDGE OF THE FAMILY COURT

-----X

In the Matter of

Petitioner,

Docket No. \_\_\_\_\_

-against -

**ORDER  
AUTHORIZING  
TRANSCRIPT  
OF RECORD**

Respondent.

-----X

The request, submitted by \_\_\_\_\_, Esq. for a transcript of the minutes from a mechanical recording is hereby granted.

\_\_\_\_\_  
J.F.C.

Date

Dear Colleague:

We are in the process of recertifying the members of the Law Guardian/Assigned Counsel Panel for 2009. If you wish to continue on this panel, please complete the attached Application for Recertification and return your original to:

Law Guardian Program  
Second Judicial Department  
335 Adams Street, Suite 2400  
Brooklyn, New York 11201

Or by email: [gchickel@courts.state.ny.us](mailto:gchickel@courts.state.ny.us)

Or by fax: 718-624-5603

If a response is not received by \_\_\_\_\_, it will be assumed that you no longer wish to continue on the panel.

A copy of the recertification procedures and the Law Guardian/Assigned Counsel Evaluation Form are enclosed for your information. (The evaluation form is sent directly by this office to the judges to be completed by them.)

Thank you for your invaluable assistance to the courts and your clients by your continued cooperation in this program.

Very truly yours,

HARRIET R. WEINBERGER

## LAW GUARDIAN/ASSIGNED COUNSEL RECERTIFICATION

1. Every Fall each member of the panel will be polled by email to ascertain whether he or she wishes to continue to serve on the panel the following year. Each member of the panel who wishes to be recertified must complete an application for recertification. (A copy of the application form is attached.)
2. Every Fall the Law Guardian/Assigned Counsel Advisory Committee will request evaluations and recommendations of each panel member from each of the Family/Supreme Court Judges in the county. (A copy of the evaluation form is attached.)
3. Panelists are invited to submit one or more letters of recommendation from attorneys who are not members of any law guardian panel. Preferably, the letter(s) should come from an attorney who has served as opposing counsel in a litigated Family Court matter handled by the panelist.
4. Letters which are submitted pursuant to paragraph 3 must address the following issues: the panelist's integrity, the panelist's familiarity with the area of law in which he practices, and the vigor with which the panelist represents his client's case.
5. Panelists may submit copies of legal memoranda which have been prepared in assigned cases or any other material which the attorney believes may assist the committee in evaluating the attorney's performance as a panel member.
6. All letters of recommendation, other submitted materials and judicial evaluations must be submitted by October 20<sup>th</sup>, 2008 to the Advisory Committee.
7. All law guardians are required to have attended the mandatory training seminar(s) sponsored by the Law Guardian/Assigned Counsel Advisory Committee for their respective judicial district(s) as a condition of recertification.
8. Based upon its review of the materials submitted and seminar attendance, the Advisory Committee shall recommend to the Appellate Division for recertification those members of the panel whom it believes have demonstrated the requisite qualifications.

**APPLICATION FOR RECERTIFICATION  
TO THE LAW GUARDIAN/ASSIGNED COUNSEL PANEL  
FOR 2009**

NAME \_\_\_\_\_

OFFICE ADDRESS \_\_\_\_\_ PHONE(\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ FAX (\_\_\_\_) \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_ CELL (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ E-MAIL \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_ PHONE (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_

1. Do you wish to remain an active member of the Law Guardian/Assigned Counsel Panel of the Appellate Division, Second Department? YES \_\_\_\_ NO \_\_\_\_

If yes, answer the following:

2. In which county are you certified? \_\_\_\_\_

3. **If applicable** Do you wish to remain an active member of the Law Guardian/Assigned Counsel Appeals Panel of the Appellate Division 2<sup>nd</sup> Department YES \_\_\_\_ NO \_\_\_\_  
**If you answer yes, please include a copy of a recent brief.**

4. Are you a member of any other assigned counsel plan? YES \_\_\_\_ NO \_\_\_\_

If YES give name and location. \_\_\_\_\_

5. Are you registered with the Office of Court Administration and have you paid the bi-annual fee of \$350.00? YES \_\_\_\_ NO \_\_\_\_

6. Did you attend the Mandatory Seminars given on \_\_\_\_\_ & \_\_\_\_\_? YES \_\_\_\_ NO \_\_\_\_

7. Indicate the number of Law Guardian/Assigned Counsel cases to which you are currently assigned.  
\_\_\_\_\_

8. Indicate the number of Law Guardian clients to which you are currently assigned. \_\_\_\_\_

9. Indicate the number of Law Guardian Appeals to which you are currently assigned. \_\_\_\_\_

(a) In how many of those appeals did you represent the appellant? \_\_\_\_\_

**THIS CERTIFICATION MUST BE RETURNED BY \_\_\_\_\_**

Name \_\_\_\_\_

10. Have you registered with the Office of Court Administration as a private pay Law Guardian pursuant to Part 36 of the Rules of the Chief Judge? YES \_\_\_ NO \_\_\_
11. In the past two years, how many cases have you been assigned as a "private pay" Law Guardian? # \_\_\_\_\_
12. Do you have any foreign language proficiency? If yes, please indicate below:  
\_\_\_\_\_
13. Have you within the past year been relieved from an assigned case, due to a conflict with a client or failure to appear? YES \_\_\_ NO \_\_\_  
If so, state particulars: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. Have you within the past year been suspended, removed or asked to resign from any assigned counsel panel? YES \_\_\_ NO \_\_\_  
If so, state particulars: ( use addendum, if necessary ).
15. In the past year, have you been the subject of any complaint or disciplinary proceeding ? YES \_\_\_ NO \_\_\_  
If YES, please indicate the status thereof:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
16. Attorneys who were appointed to the Law Guardian/Assigned Counsel Panel within the past 12 months are required to submit to the Law Guardian Program, at the time of recertification, a complete list of the cases to which they have been assigned since their appointment.  
  
Please include the following information: Name, Docket Number, Judge and Part, including the status of each case.  
  
Please return this list of cases with your completed Recertification Form.
17. The required waiver of confidentiality is attached to this application. YES \_\_\_ NO \_\_\_

**AFFIRMATION**

The undersigned, an attorney duly admitted to practice before the courts of the State of New York, affirms under penalties of perjury and states that the information provided herein is true and accurate.

Date: \_\_\_\_\_

Signature of Affiant: \_\_\_\_\_

**WAIVER OF CONFIDENTIALITY**

I authorize the Grievance Committee of the Second Department, or any other department, to share information relative to me as an attorney with the Law Guardian Program of the Appellate Division, Second Judicial Department.

-----  
Name (Please Print)

-----  
Signature

-----  
Date

Sworn to before me this  
\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

# LAW GUARDIAN/ASSIGNED COUNSEL EVALUATION FORM

\_\_\_\_\_  
Law Guardian/Assigned Counsel

Approximate number of matters before the Court in the past year.

0                      1-5                      6-10                      10+

Please check the appropriate box.

	<u>Poor</u>	<u>Acceptable</u>	<u>Good</u>	<u>Excellent</u>
1. Knowledge of the law:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Legal Judgement:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Preparation of assigned cases:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Competency of advocacy:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Punctuality:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Demeanor:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Candor with the Court:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. If POOR is answered in any one category, please comment. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I recommend:

1. Recertification \_\_\_\_\_

2. Denial of Recertification \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

3. Recertification with Admonition and a period of Probation \_\_\_\_\_

Specific concerns: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge/Justice/Court Atty Referee

Print name \_\_\_\_\_

At a Term of the Supreme/Family Court held  
in and for the County of \_\_\_\_\_ at  
the Courthouse located at \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_.

P R E S E N T:

Hon. \_\_\_\_\_  
Justice/Judge of the Court

-----X

Index/Docket No.

**ORDER APPOINTING  
ATTORNEY FOR THE  
CHILD(REN)**

-----X

Upon all of the prior proceedings in this action/proceeding, it is

1. ORDERED that the following is appointed Attorney for the Child(ren);

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone/Fax: \_\_\_\_\_

Email: \_\_\_\_\_

for the following child(ren) of the parties (*provide name(s) and date(s) of birth of child(ren)*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ORDERED that the Attorney for the Child(ren) shall be compensated by the State of New York pursuant to Judiciary Law §35 and Family Court Act §245.

3. ORDERED that

a. counsel for the parties shall immediately contact the Attorney for the Child(ren) to schedule the interview(s) of the child(ren) with the Attorney for the Child(ren) outside the presence of the parties and their counsel;

b. each party, on written consent or on the record of his/her counsel, may schedule interviews with the Attorney for the Child(ren), with or without his/her counsel present, to discuss all issues relevant to custody and visitation;

c. the parties and counsel shall cooperate with the Attorney for the Child(ren) in providing any documents, papers or information requested, including executing releases permitting the Attorney for the Child(ren) to speak with, or receive information from, any mental health professionals, social service workers or agencies, physicians, schools, clergy, or other persons or entities having material and necessary information regarding the child(ren);

d. the parties shall permit reasonable, private and unhampered access by the children to the Attorney for the Child(ren), including contact in person or by phone, fax, Email or regular mail;

4. ORDERED that the counsel for the parties shall immediately send the Attorney for the Child(ren) copies of all papers in the action/proceeding, including pleadings, motions and prior orders pertaining to the child(ren);

and

5. ORDERED that the parties, counsel and the Attorney for the Child(ren) shall appear for a conference in this Part at \_\_\_\_\_ am/pm on \_\_\_\_\_, 20 .

**ENTER:**

\_\_\_\_\_  
Justice/Judge

Attorney for Plaintiff/Petitioner:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone/Fax: \_\_\_\_\_ / \_\_\_\_\_

Email: \_\_\_\_\_

Attorney for Defendant/Respondent:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone/Fax: \_\_\_\_\_ / \_\_\_\_\_

Email: \_\_\_\_\_

At a Term of the Supreme/Family Court held in and for the County of \_\_\_\_\_ at the Courthouse located at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

P R E S E N T:

Hon. \_\_\_\_\_  
Justice/Judge of the Court

-----X

Index/Docket No.

**ORDER APPOINTING  
PRIVATELY PAID  
ATTORNEY FOR THE  
CHILD(REN)**

-----X

Upon all of the prior proceedings in this action/proceeding, it is

1. ORDERED that the following is appointed Attorney for the Child(ren);

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone/Fax: \_\_\_\_\_

Email: \_\_\_\_\_

for the following child(ren) of the parties (*provide name(s) and date(s) of birth of child(ren)*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ORDERED that upon receipt of this order and UCS 872 (Notice of Appointment and Certification of Compliance), the Attorney for the Child(ren) shall complete, execute and return UCS 872 to the Fiduciary Clerk:

3. ORDERED that within 10 days of service of a copy of this order of appointment the parties shall pay to the Attorney for the Child(ren) a retainer of \$ \_\_\_\_\_ (*enter "None" if a retainer is not authorized*);

4. ORDERED that no less often than every 60 days from the date of this order of appointment the Attorney for the Child(ren) shall send to counsel for the parties bills for compensation and the reimbursement of disbursements;

5. ORDERED that the Attorney for the Child(ren) shall bill at a rate of compensation of \$ \_\_\_\_\_ per hour;

6. ORDERED that subject to reallocation at trial the retainer and all subsequent compensation, including reimbursement for disbursements, shall be paid to the Attorney for the Child(ren) by the parties according to the following percentages:

Plaintiff \_\_\_\_\_%                      Defendant \_\_\_\_\_%

7. ORDERED that once the retainer is expended, or where no retainer is authorized, the parties shall pay all bills sent by the Attorney for the Child(ren) within 20 days of the date of the bill;

8. ORDERED that all compensation and reimbursement for disbursements billed by the Attorney for Child(ren) during the pendency of this action/proceeding shall be approved by the Court in the final order of compensation, which shall be settled by the Attorney for the Child(ren), on five days notice, at the conclusion of the Attorney for the Child(ren)'s service in the action/proceeding, or as otherwise directed by the Court;

9. ORDERED that the final order of compensation shall be supported by the Attorney for the Child(ren)'s affirmation of services on a form approved by the Chief Administrator of the Courts;

10. ORDERED that within 10 days of service of a copy of the final order of compensation the Attorney for the Child(ren) shall return to a party any amount paid by that party in excess of his/her share of compensation and reimbursement for disbursement, as approved by the Court in the final order of compensation;

11. ORDERED that

a. counsel for the parties shall immediately contact the Attorney for the Child(ren) to schedule the interview(s) of the child(ren) with the Attorney for Child(ren) outside the presence of the parties and their counsel;

b. each party, on written consent or on the record of his/her counsel, may schedule interviews with the Attorney for the Child(ren), with or without his/her counsel present, to discuss all issues relevant to custody and visitation;

c. the parties and counsel shall cooperate with the Attorney for the Child(ren) in providing any documents, papers or information requested, including executing releases permitting the Attorney for the Child(ren) to speak with, or receive information from, any mental health professionals, social service workers or agencies, physicians, schools, clergy, or other persons or entities having material and necessary information regarding the child(ren);

d. the parties shall permit reasonable, private and unhampered access by the children to the Attorney for the Child(ren), including contact in person or by phone, fax, Email or regular mail;

12. ORDERED that the counsel for the parties shall immediately send the Attorney for the Child(ren) copies of all papers in the action/proceeding, including pleadings, motions and prior orders pertaining to the child(ren);

13. ORDERED that the parties, counsel and the Attorney for the Child(ren) shall appear for conference in this Part at \_\_\_\_\_ am/pm on \_\_\_\_\_, 20 .

and

14. The failure to comply with the provisions of this order relating to payment of the fees of the Attorney for the Child(ren) shall be subject to judicial sanction.

**ENTER:**

\_\_\_\_\_  
Justice/Judge

Attorney for Plaintiff/Petitioner:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone/Fax: \_\_\_\_\_ / \_\_\_\_\_

Email: \_\_\_\_\_

Attorney for Defendant/Respondent:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone/Fax: \_\_\_\_\_ / \_\_\_\_\_

Email: \_\_\_\_\_



3. The nature of the services provided is evidenced by my time records, attached as Exhibit A, which itemize and total my charges, plus disbursements, and separately itemize and total all payments received from each party;

4. Compensation, excluding disbursements, is requested for:

_____ (14) <i>Number of Hours</i>
--------------------------------------

a. the hours spent during the current period (see Exhibit A):

b. at the hourly rate of:  
(Attach, as Exhibit B, a copy of the order of appointment fixing hourly rate.)

\$\_\_\_\_\_ per hour

c. for total compensation<sup>2</sup> of:

_____ (15) <i>Total Compensation</i>
---

5. I request reimbursement for disbursements in the amount of: \$\_\_\_\_\_.

WHEREFORE, I respectfully request that the Court grant fair and reasonable compensation, plus reimbursement for disbursements, for a total award of: \$\_\_\_\_\_.

DATED: \_\_\_\_\_

*Signature:* \_\_\_\_\_

*Print Name:* \_\_\_\_\_

*Address:* \_\_\_\_\_

\_\_\_\_\_

*Phone/FAX:* \_\_\_\_\_ / \_\_\_\_\_

*Email:* \_\_\_\_\_

\_\_\_\_\_

<sup>2</sup>Compensation, *excluding disbursements*, is the amount to be entered in item 15 of UCS 875 (Statement of Approval of Compensation).

Court: \_\_\_\_\_  
County: \_\_\_\_\_

X

*Title of Action/Proceeding*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ORDER APPROVING**  
**LAW GUARDIAN**  
**COMPENSATION**

INDEX NO. \_\_\_\_\_ / \_\_\_\_\_  
*No. Yr.*

X

*Name of Judge:* \_\_\_\_\_:

Upon the order of this Court, dated \_\_\_\_\_, 20\_\_\_\_, appointing as Law  
Guardian:

*Name:* \_\_\_\_\_

*Address:* \_\_\_\_\_

\_\_\_\_\_

*Phone/FAX:* \_\_\_\_\_ / \_\_\_\_\_

*Email:* \_\_\_\_\_

and upon his/her affirmation of services, dated \_\_\_\_\_, 20\_\_\_\_, it is

**ORDERED** that the Law Guardian's compensation is approved in the amount of  
\$ \_\_\_\_\_, plus disbursements in the amount of \$ \_\_\_\_\_, for  
a total of \$ \_\_\_\_\_;

**ORDERED** that the parties shall be liable for the approved compensation and  
reimbursement for disbursements in the following percentages:

Plaintiff/Petitioner \_\_\_\_\_%: for a total of \$ \_\_\_\_\_,

Defendant/Respondent \_\_\_\_\_%: for a total of \$ \_\_\_\_\_;

**ORDERED** that the foregoing percentages are *(Mark "X" in box (a) OR (b))*

- a.  as established by the order of appointment;
- b.  as otherwise determined by the Court;

**ORDERED** that *(Enter "None" if no credit is given.)*

- a. Plaintiff/Petitioner is credited \$ \_\_\_\_\_ for payments made;
- b. Defendant/Respondent is credited \$ \_\_\_\_\_ for payments made;

**ORDERED** that within 10 days of service of a copy of this order *(Mark "X" in appropriate box(es), and enter dollar amount for item(s) marked.)*

- a.  Plaintiff/Petitioner shall pay Law Guardian \$ \_\_\_\_\_
- b.  Defendant/Respondent shall pay Law Guardian \$ \_\_\_\_\_
- c.  Law Guardian shall pay Plaintiff/Petitioner \$ \_\_\_\_\_
- d.  Law Guardian shall pay Defendant/Respondent \$ \_\_\_\_\_

**DATED:**

\_\_\_\_\_  
**Judge**

**Attorney for Plaintiff/Petitioner:**

**Attorney for Defendant/Respondent:::**

*Name:* \_\_\_\_\_

*Name:* \_\_\_\_\_

*Address:* \_\_\_\_\_

*Address:* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Phone/FAX:* \_\_\_\_\_ / \_\_\_\_\_

*Phone/FAX:* \_\_\_\_\_ / \_\_\_\_\_

*Email:* \_\_\_\_\_

*Email:* \_\_\_\_\_



NOA #

# STATEMENT OF APPROVAL OF COMPENSATION

(Pursuant to Part 26 of the Rules of the Chief Judge)

DATE OF APPOINTMENT: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Month Day Year

- I certify that the appointee has filed a Notice of Appointment and Certification of Compliance pursuant to Part 36 of the Rules of the Chief Judge.
- The appointee is NOT required to file a Notice of Appointment and Certification of Compliance.

Signature: \_\_\_\_\_  
Fiduciary Clerk

**1. Appointee's Name and Fiduciary Identification Number:**

FID #

Name: \_\_\_\_\_  
First Middle Last Suffix (Sr., Jr., III)

**2. Address/Phone/FAX/Email:**

Business Name (if any)

Street City/Town/Village State Zip

Phone Fax E-Mail

**3. Type of Appointment:**

**4. Index/File No.:**

Number / Year

**5. Court:**

**6. County:**

**7. Title of Action/Proceeding:**

**8. Case Type:**

**9. Appointing Judge:**

First Middle Last Suffix (Sr., Jr., III)

**To be Completed by the Judge Approving Compensation**

(Mark appropriate boxes with "X".)

**10. Approving Judge:**

First

Middle

Last

Suffix (Sr., Jr., III)

**11. The name of the person/entity/property served:**

**12. The action/proceeding was**

contested  uncontested.

**13. The gross value of the estate of the person/entity/property served or of the interest sought to be obtained, protected or preserved in the action/proceeding:**

\$ \_\_\_\_\_ . \_\_\_\_\_

**14. Appointee provided \_\_\_\_\_ hours of service.**

**15. Compensation is awarded in the amount of**

\$ \_\_\_\_\_ . \_\_\_\_\_

I have approved compensation of \$5,000.00 or more for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**16. I certify that the compensation awarded is**

a) reasonable for the services rendered

OR

b) fixed by the following statute: \_\_\_\_\_.

Date of approval: \_\_\_\_\_

Signature: \_\_\_\_\_

Fiduciary Clerk should submit all completed statements to: *Appointment Processing Unit, 25 Beaver Street, Room 840, New York, NY 10004*

**FAMILY COURT ASSIGNED COUNSEL  
SECOND AND ELEVENTH JUDICIAL DISTRICTS  
(KINGS, QUEENS AND RICHMOND COUNTIES)**

**a. Statutes**

## LAW GUARDIAN PROGRAM

### COUNTY LAW

#### ARTICLE 18-B

##### **§ 722. Plan for Representation**

The governing body of each county and the governing body of the city in which a county is wholly contained shall place in operation throughout the county a plan for providing counsel to persons charged with a crime or who are entitled to counsel pursuant to section two hundred sixty-two or section eleven hundred twenty of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, who are financially unable to obtain counsel. Each plan shall also provide for investigative, expert and other services necessary for an adequate defense. The plan shall conform to one of the following:

1. Representation by a public defender appointed pursuant to county law article eighteen-A.
2. In criminal proceedings, representation by counsel furnished by a private legal aid bureau or society designated by the county or city, organized and operating to give legal assistance and representation to persons charged with a crime within the city or county who are financially unable to obtain counsel. In proceedings under the family court act, representation by a private legal aid bureau or society, or by any corporation, voluntary association, or organization permitted to practice law under the authority of subdivision five of section four hundred ninety-five of the judiciary law.
3. Representation by counsel furnished pursuant to a plan of a bar association in each county or the city in which a county is wholly contained whereby the services of private counsel are rotated and coordinated by an administrator, and such administrator may be compensated for such service. Any plan of a bar association must receive the approval of the state administrator before the plan is placed in operation. In the county of Hamilton, such representation may be by counsel furnished by the Fulton county bar association pursuant to a plan of the Fulton county bar association.
4. Representation according to a plan containing a combination of any of the foregoing. Any judge, justice or magistrate in assigning counsel pursuant to sections 170.10, 180.10, 210.15 and 720.30 of the criminal procedure law, or in assigning counsel to a defendant when a hearing has been ordered in a proceeding upon a motion, pursuant to article four hundred forty of the criminal procedure law, to vacate a judgment or to set aside a sentence or on a motion for a writ of error coram nobis, or in assigning counsel pursuant to the provisions of section two hundred sixty-two of the family court act or section four hundred seven of the surrogate's court procedure act, shall assign counsel furnished in accordance with a plan conforming to the requirements of this section; provided, however, that when the county or the city in which a county is wholly contained has not placed in operation a plan conforming to that prescribed in this subdivision or subdivision three of this section and the judge, justice or magistrate is satisfied that a conflict of interest prevents the assignment of counsel pursuant to the plan in operation, or when the county or the city in which a county is wholly contained has not placed in operation any plan conforming to that prescribed in this section, the judge, justice or magistrate may assign any attorney in such county or city and, in such

event, such attorney shall receive compensation and reimbursement from such county or city which shall be at the same rate as is prescribed in section seven hundred twenty-two-b of this article.

5. In classification proceedings under article six-C of the correction law or from an appeal thereof, representation shall be according to a plan described in subdivisions one, two, three or four of this section. If such plan includes representation by a private legal aid bureau or society, such private legal aid bureau or society shall have been designated to give legal assistance and representation to persons charged with a crime. Upon an appeal in a criminal action, and on any appeal described in section eleven hundred twenty of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, wherein the party is financially unable to obtain counsel, the appellate court shall assign counsel furnished in accordance with the plan, conforming to the requirements of this section, which is in operation in the county or in the city in which a county is wholly contained wherein the judgment of conviction, disposition, or order of the trial court was entered; provided, however, that when such county or city has not placed in operation a plan conforming to that prescribed in subdivision three or four of this section and such appellate court is satisfied that a conflict of interest prevents the assignment of counsel pursuant to the plan in operation, or when such county or city has not placed in operation any plan conforming to that prescribed in this section, such appellate court may assign any attorney in such county or city and, in such event, such attorney shall receive compensation and reimbursement from such county or city which shall be at the same rate as is prescribed in section seven hundred twenty-two-b of this chapter.

**§ 722-b. Compensation and Reimbursement for Representation**

1. All counsel assigned in accordance with a plan of a bar association conforming to the requirements of section seven hundred twenty-two of this article whereby the services of private counsel are rotated and coordinated by an administrator shall at the conclusion of the representation receive:

(a) for representation of a person entitled to representation by law who is initially charged with a misdemeanor or lesser offense and no felony, compensation for such misdemeanor or lesser offense representation at a rate of sixty dollars per hour for time expended in court or before a magistrate, judge or justice, and sixty dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred; and

(b) for representation of a person in all other cases governed by this article, including all representation in an appellate court, compensation at a rate of seventy-five dollars per hour for time expended in court before a magistrate, judge or justice and seventy-five dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.

2. Except as provided in this section, compensation for time expended in providing representation:

(a) pursuant to paragraph (a) of subdivision one of this section shall not exceed two thousand four hundred dollars; and

(b) pursuant to paragraph (b) of subdivision one of this section shall not exceed four thousand four hundred dollars.

3. For representation on an appeal, compensation and reimbursement shall be fixed by the appellate court. For all other representation, compensation and reimbursement shall be fixed by the trial court judge. In extraordinary circumstances a trial or appellate court may provide for compensation in excess of the foregoing limits and for payment of compensation and reimbursement for expenses before the completion of the representation.
4. Each claim for compensation and reimbursement shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source. No counsel assigned hereunder shall seek or accept any fee for representing the party for whom he or she is assigned without approval of the court as herein provided.

**§ 722-c. Services Other Than Counsel**

Upon a finding in an ex parte proceeding that investigative, expert or other services are necessary and that the defendant or other person described in section two hundred forty-nine or section two hundred sixty-two of the family court act, article six-C of the correction law or section four hundred seven of the surrogate's court procedure act, is financially unable to obtain them, the court shall authorize counsel, whether or not assigned in accordance with a plan, to obtain the services on behalf of the defendant or such other person. The court upon a finding that timely procurement of necessary services could not await prior authorization may authorize the services nunc pro tunc. The court shall determine reasonable compensation for the services and direct payment to the person who rendered them or to the person entitled to reimbursement. Only in extraordinary circumstances may the court provide for compensation in excess of one thousand dollars per investigative, expert or other service provider.

Each claim for compensation shall be supported by a sworn statement specifying the time expended, services rendered, expenses incurred and reimbursement or compensation applied for or received in the same case from any other source.

**§ 722-d. Duration of Assignment**

Whenever it appears that the defendant is financially able to obtain counsel or to make partial payment for the representation or other services, counsel may report this fact to the court and the court may terminate the assignment of counsel or authorize payment, as the interests of justice may dictate, to the public defender, private legal aid bureau or society, private attorney, or otherwise.

**§ 722-e. Expenses**

All expenses for providing counsel and services other than counsel hereunder shall be a county charge or in the case of a county wholly located within a city a city charge to be paid out of an appropriation for such purposes.

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION - SECOND JUDICIAL DEPARTMENT**

**FAMILY COURT ACT**

**§ 261. Legislative Findings and Purpose**

Persons involved in certain family court proceedings may face the infringements of fundamental interests and rights, including the loss of a child's society and the possibility of criminal charges, and therefore have a constitutional right to counsel in such proceedings. Counsel is often indispensable to a practical realization of due process of law and may be helpful to the court in making reasoned determinations of fact and proper orders of disposition. The purpose of this part is to provide a means for implementing the right to assigned counsel for indigent persons in proceedings under this act.

**§ 262. Assignment of Counsel for Indigent Persons**

- (a) Each of the persons described below in this subdivision has the right to the assistance of counsel. When such person first appears in court, the judge shall advise such person before proceeding that he has the right to be represented by counsel of his own choosing, of his right to have an adjournment to confer with counsel, and of his right to have counsel assigned by the court in any case where he is financially unable to obtain the same:
- (i) the respondent in any proceeding under article ten of this act and the petitioner in any proceeding under part eight of article ten of this act;
  - (ii) the petitioner and the respondent in any proceeding under article eight of this act;
  - (iii) the respondent in any proceeding under part three of article six of this act;
  - (iv) the parent, foster parent, or other person having physical or legal custody of the child in any proceeding under section three hundred fifty-eight-a, three hundred eighty-four, three hundred eighty-four-b, or three hundred ninety-two of the social services law, and a non-custodial parent or grandparent served with notice pursuant to paragraph (e) of subdivision two of section three hundred eighty-four-a of the social services law;
  - (v) the parent of any child seeking custody or contesting the substantial infringement of his or her right to custody of such child, in any proceeding before the court in which the court has jurisdiction to determine such custody;
  - (vi) any person in any proceeding before the court in which an order or other determination is being sought to hold such person in contempt of the court or in willful violation of a previous order of the court, except for a contempt which may be punished summarily under section seven hundred fifty-five of the judiciary law;
  - (vii) the parent of a child in any adoption proceeding who opposes the adoption of such child.

(viii)  
the respondent in any proceeding under article five of this act in relation to the establishment of paternity.

- (b) Assignment of counsel in other cases. In addition to the cases listed in subdivision (a) of this section, a judge may assign counsel to represent any adult in a proceeding under this act if he determines that such assignment of counsel is mandated by the constitution of the state of New York or of the United States, and includes such determination in the order assigning counsel;
- (c) Implementation. Any order for the assignment of counsel issued under this part shall be implemented as provided in article eighteen-B of the county law.

**§1118. Applicability of Civil Practice Law and Rules**

The provisions of the civil practice law and rules apply where appropriate to appeals under this article, provided, however, that the fee required by section eight thousand twenty-two of the civil practice law and rules shall not be required where the appellant or attorney certifies that the appellant has been assigned counsel pursuant to section two hundred forty-nine, two hundred sixty-two or eleven hundred twenty of this act or section seven hundred twenty-two of the county law, or is represented by a legal aid society or a federally-funded legal services program for indigents.

## CIVIL PRACTICE LAW AND RULES

### ARTICLE II - POOR PERSONS

**1101. Motion for Permission to Proceed as a Poor Person; Affidavit; Certificate; Notice; Waiver of Fee; When Motion Not Required**

- (a) **Motion; affidavit.** Upon motion of any person, the court in which an action is triable, or to which an appeal has been or will be taken, may grant permission to proceed as a poor person. Where a motion for leave to appeal as a poor person is brought to the court in which an appeal has been or will be taken, such court shall hear such motion on the merits and shall not remand such motion to the trial court for consideration. The moving party shall file an affidavit setting forth the amount and sources of his or her income and listing his or her property with its value; that he or she is unable to pay the costs, fees and expenses necessary to prosecute or defend the action or to maintain or respond to the appeal; the nature of the action; sufficient facts so that the merit of the contentions can be ascertained; and whether any other person is beneficially interested in any recovery sought and, if so, whether every such person is unable to pay such costs, fees and expenses. An executor, administrator or other representative may move for permission on behalf of a deceased, infant or incompetent poor person.
- (b) **Certificate.** The court may require the moving party to file with the affidavit a certificate of an attorney stating that the attorney has examined the action and believes there is merit to the moving party's contentions.
- (c) **Notice.** Except as provided in subdivisions (d) and (e) of this section, if an action has already been commenced, notice of the motion shall be served on all parties, and notice shall also be given to the county attorney in the county in which the action is triable or the corporation counsel if the action is triable in the city of New York.
- (d) [Eff. until Sept. 1, 2005, pursuant to L.1999, c. 412, pt. D, § 4. See, also, subd. (d) below.] **Waiver of fee in certain cases.** Except as otherwise provided in subdivision (f) of this section, if applicable, a plaintiff may seek to commence his or her action without payment of the fee required by filing the form affidavit, attesting that such plaintiff is unable to pay the costs, fees and expenses necessary to prosecute or defend the action, which shall be available in the clerk's office along with the summons and complaint or summons with notice or third-party summons and complaint. The case will be given an index number, or, in courts other than the supreme or county courts, any necessary filing number and the application will be submitted to a judge of the court. If the court approves the application, the plaintiff will by written order be given notice that all fees and costs relating to the filing and service shall be waived. If the court denies the application the plaintiff will by written order be given notice that the case will be dismissed if the fee is not paid within one hundred twenty days of the date of the order.
- (d) [Eff. Sept. 1, 2005. See, also, subd. (d) above.] **Waiver of fee in certain cases.** A plaintiff may seek to commence his or her action without payment of the fee required by filing the form affidavit, attesting that such plaintiff is unable to pay the costs, fees and expenses necessary to prosecute or defend the action, which shall be available in the clerk's office along with the summons and complaint or

summons with notice or third-party summons and complaint. The case will be given an index number, or, in courts other than the supreme or county courts, any necessary filing number and the application will be submitted to a judge of the court. If the court approves the application, the plaintiff will by written order be given notice that all fees and costs relating to the filing and service shall be waived. If the court denies the application the plaintiff will by written order be given notice that the case will be dismissed if the fee is not paid within one hundred twenty days of the date of the order.

- (e) **When motion not required.** Where a party is represented in a civil action by a legal aid society or a legal services or other nonprofit organization, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf of or under the auspices of such society or organization, all fees and costs relating to the filing and service shall be waived without the necessity of a motion and the case shall be given an index number, or, in a court other than the supreme or county court, an appropriate filing number, provided that a determination has been made by such society, organization or attorney that such party is unable to pay the costs, fees and expenses necessary to prosecute or defend the action, and that an attorney's certification that such determination has been made is filed with the clerk of the court along with the summons and complaint or summons with notice or third-party summons and complaint or otherwise provided to the clerk of the court.

Note: (f) not reprinted here.

#### **1102. Privileges of Poor Person**

- (a) **Attorney.** The court in its order permitting a person to proceed as a poor person may assign an attorney.
- (b) **Stenographic transcript.** Where a party has been permitted by order to appeal as a poor person, the court clerk, within two days after the filing of said order with him, shall so notify the court stenographer, who, within twenty days of such notification shall make and certify two typewritten transcripts of the stenographic minutes of said trial or hearing, and shall deliver one of said transcripts to the poor person or his attorney, and file the other with the court clerk together with an affidavit of the fact and date of such delivery and filing. The expense of such transcripts shall be a county charge or, in the counties within the city of New York, a city charge, as the case may be, payable to the stenographer out of the court fund upon the certificate of the judge presiding at the trial or hearing. A poor person may be furnished with a stenographic transcript without fee by order of the court in proceedings other than appeal, the fee therefor to be paid by the county or, in the counties within the city of New York by the city, as the case may be, in the same manner as is paid for transcripts on appeal. Notwithstanding this or any other provision of law, fees paid for stenographic transcripts with respect to those proceedings specified in paragraph (a) of subdivision one of section thirty-five of the judiciary law shall be paid by the state in the manner prescribed by subdivision four of section thirty-five of the judiciary law.
- (c) **Appeals.** On an appeal or motion for permission to appeal a poor person may submit typewritten briefs and appendices, furnishing one legible copy for each appellate justice.

- (d) **Costs and fees.** A poor person shall not be liable for the payment of any costs or fees unless a recovery by judgment or by settlement is had in his favor in which event the court may direct him to pay out of the recovery all or part of the costs and fees, a reasonable sum for the services and expenses of his attorney and any sum expended by the county or city under subdivision (b).

## **JUDICIARY LAW § 35 (8)**

### **§35 (8) Assignment of Counsel to Indigent Persons**

Whenever supreme court shall exercise jurisdiction over a matter which the family court might have exercised jurisdiction had such action or proceeding been commenced in family court or referred thereto pursuant to law, and under circumstances whereby, if such proceedings were pending in family court, such court would be required by section two hundred and sixty-two of the family court act to appoint counsel, supreme court shall also appoint counsel and such counsel shall be compensated in accordance with the provisions of this section.

### **Judiciary Law § 35 (8) Vouchers**

Counsel appointed pursuant to Section 35 of the Judiciary Law are compensated at the rate of \$75 per each hour of in-court or out-of court work.

Vouchers for eligible services must be approved by the Supreme Court Justice and should then be directed to the Chief Clerk of the Court for payment processing by the appropriate District Administrative Judge's office. For a copy of the Judiciary Law § 35 (8) voucher, please refer to the Table of Contents, under Chapter VIII (d) Family Court Assigned Counsel Relevant Forms.

**FAMILY COURT ASSIGNED COUNSEL**  
**SECOND AND ELEVENTH JUDICIAL DISTRICTS**  
**(KINGS, QUEENS AND RICHMOND COUNTIES)**

**b. Regulations**

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION - SECOND DEPARTMENT  
RULES OF THE APPELLATE DIVISION - SECOND DEPARTMENT**

**PART 671. ADDITIONAL DUTIES OF COUNSEL AND THE COURT CLERK IN  
CRIMINAL ACTIONS, IN HABEAS CORPUS AND CPLR ARTICLE 78 PROCEEDINGS,  
IN PROCEEDINGS INSTITUTED BY MOTION MADE PURSUANT TO CPLR 440.10 OR  
440.20 AND FAMILY COURT ACT PROCEEDINGS**

**671.10. Duties of Assigned Counsel in the Surrogate's Court and the Family Court**

(a) Upon the entry of an order in the Surrogate's Court and Family Court from which an appeal may be taken, it shall be the duty of assigned counsel for the unsuccessful party, immediately after the entry of the order, to give either by mail or personally, written notice to the client advising of the right to appeal or to make application for permission to appeal, and request written instructions as to whether he or she desires to take an appeal or to make such application. Thereafter, if the client gives to counsel timely written notice of his or her desire to appeal or to make such application, counsel shall promptly serve and file the necessary formal notice of appeal, or make application to this court for permission to appeal. Unless counsel shall have been retained to prosecute the appeal, the notice of appeal may contain the additional statement that it is being served and filed on appellant's behalf pursuant to this rule and that it shall not be deemed to be counsel's appearance as appellant's attorney on the appeal.

(b) In counsel's written notice to the client advising of the right to appeal or to make application for permission to appeal, counsel shall also set forth:

- (1) the applicable time limitations with respect to the taking of the appeal or the making of the application for permission to appeal;
- (2) the manner of instituting the appeal and, if a trial or hearing was held and stenographic minutes taken, the manner of obtaining a typewritten transcript of such minutes;
- (3) the client's right, upon proof of his or her financial inability to retain counsel and to pay the costs and expenses of the appeal, to make application to this court for the assignment of counsel to prosecute the appeal; and, if stenographic minutes were taken, for a direction to the clerk and the stenographer of the trial court that a typewritten transcript of such minutes be furnished without charge to assigned counsel or, if the client prosecutes the appeal *pro se*, to the client; and
- (4) in such notice counsel shall also request the written instructions of his client, and if the client thereafter gives counsel timely written notice of his or her desire to make application for permission to appeal or to apply for the relief provided in paragraph

(3) of this section, or to make any one or all of these applications, counsel shall proceed promptly to do so.

(c) Counsel shall also advise the client that in those cases where permission to appeal is required, applications for the foregoing relief will be considered only if such permission is granted.

(d) If the assigned counsel represented the successful party in the court in which the order being appealed was entered, such assignment shall remain in effect and counsel shall continue to represent the successful party as the respondent on the appeal until entry of the order determining the appeal and until counsel shall have performed any additional applicable duties imposed upon him or her by these rules, or until counsel shall have been otherwise relieved of his assignment.

**NOTE-** If either the fact-finding or disposition were subsequent to a hearing, the client must be notified of the right to appeal, as stated above. If, however, the finding or disposition was upon inquest, it is not appropriate to file a Notice of Appeal. Notification to your client as to the court action taken and the right to move to vacate the default is required. In each case a copy of the written communication to the client must be attached to your voucher.

**LAW GUARDIAN PROGRAM  
APPELLATE DIVISION - SECOND DEPARTMENT  
RULES OF THE APPELLATE DIVISION - SECOND DEPARTMENT**

**PART 678**

**ASSIGNED COUNSEL PANELS  
SECOND AND ELEVENTH JUDICIAL DISTRICTS**

**678.11 Assignment of Counsel**

Assignment of counsel by the Family Court, Supreme Court or Surrogate's Court to represent indigent adults in proceedings pursuant to section 262 of the Family Court Act, shall be made from law guardian panels designated pursuant to Part 679 of this Title (The rules of the Appellate Division, Second Department). Attorneys so assigned shall be subject to those court rules including the rules relating to evaluation and removal.

**FAMILY COURT ASSIGNED COUNSEL**  
**SECOND AND ELEVENTH JUDICIAL DISTRICTS**  
**(KINGS, QUEENS AND RICHMOND COUNTIES)**

**c. Administrative Policies and Procedures**

**ASSIGNED COUNSEL PLAN OF THE CITY OF NEW YORK**

253 Broadway, Room 200

New York, New York 10007

*First and Second Judicial Departments*

**FAMILY COURT PAYMENT POLICIES AND PROCEDURES**

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# **ASSIGNED COUNSEL PLAN OF THE CITY OF NEW YORK**

## ***First and Second Judicial Departments***

### **FAMILY COURT PAYMENT POLICIES AND PROCEDURES**

#### **I. Introduction**

The Assigned Counsel Plan for the City of New York (ACP) is a bifurcated office that implements the mandate of Article 18-B of the County Law to assign attorneys within the five boroughs of the City of New York to represent indigent parties in Criminal and Supreme Court proceedings, as well as compensate attorneys and experts in criminal and family courts for their service on behalf of the indigent adult defendants and litigants.

The assignment and payment functions required by the statute are implemented by the assignment and payment divisions within the ACP. The assignment division is headed by two Administrators of the First and Second Departments who prepare the attorney panels and expert roster and are responsible for attorney case assignments and the resolution of issues concerning quality of representation.

The Director of the ACP oversees the payment division, develops uniform payment policies, investigates and resolves fiscal issues and coordinates city-wide policy with the two ACP Administrators.

#### **II. The Family Court Panel**

Members of the Family Court Panel are required to serve as both Law Guardians and ACP Family Court attorneys, receiving assignments to represent juveniles as well as adults in Family Court proceedings. Article 18-B is also the implementing statute that requires ACP to compensate Family Court Panel attorneys and related expert and/or other ancillary services provided on behalf of indigent adult litigants.

##### **A. Appointment to the Assigned Counsel Family Court Panel**

The Law Guardian Programs of the Appellate Division's First and Second Judicial Departments oversee the administration of policies and procedures for assignments in Family Court. Information concerning assignments should be sought at the respective Law Guardian Program.

##### **B. Panel Membership.**

An attorney must be a member of the Assigned Counsel Family Court Panel to be compensated for services by the ACP.

The following are ACP vouchers used in Family Court proceedings. Their applications are discussed under

each of the categories of Intake, Case, Expert and Appeal to follow:

1. ACP Family Court Intake Voucher Citywide
2. Voucher for Compensation of Appointed Counsel under Article 18-B – Family Court (with Case Worksheet)
3. ACP 722-c Services – Expert Voucher – Family Court
4. Request for Compensation and Expenses of Appointed Counsel under Article 18-B of the County Law (Second Judicial Department)

These vouchers are available for download on ACP's website, under the Family Court tab in 18-B Web at [www.nyc.gov/18B](http://www.nyc.gov/18B) .The forms are found under the Family Court tab.

#### C. Primary Day (Intake) Shifts

The costs associated with primary day shifts are apportioned between ACP and the Law Guardian Program. ACP is responsible for payments associated with adult petitioners and the State, through its Law Guardian Program, is responsible for payments associated with juvenile representation.

At the conclusion of each intake shift, the assigned attorney must complete and sign two separate vouchers: one voucher for cases involving juveniles (JC200) and a second voucher for services rendered to adults - ACP Family Court Intake Voucher Citywide). The information previously requested concerning case detail appearing on the back of the voucher is no longer a requirement of submission.

Once the part goes down for the day, counsel should submit both forms to the Intake Judge for signature. Vouchers received by ACP must be original and signed by the presiding judge in blue ink. Both vouchers must be submitted directly to the Law Guardian Program, which is responsible for ensuring the appropriate apportionment of vouchers between juveniles and adults before mailing the ACP vouchers to the city for processing and payment.

#### D. Family Court Cases

At the conclusion of a case, the assigned attorney must submit the original completed voucher (Voucher for Compensation of Appointed Counsel under Article 18-B – Family Court) to the last judge assigned to the case for signature in blue ink only.

The attorney must submit the completed, signed voucher directly to ACP for processing and payment via mail or hand-delivery. Once received, an ACP clerk reviews it and any accompanying documentation for completeness and accuracy. If the voucher package is complete and accurate, the clerk forwards the payment information to the NYC Financial Information Services Agency ("FISA" -- the city agency that issues payments).

#### E. Time Period for Submission – the 45-day Rule

At the conclusion of a family court matter, the assigned attorney must submit the case voucher to ACP within forty-five (45) days of the case disposition. In the event that a warrant becomes issued and there is no return within 30 days, the

vouchers must be submitted within 90 days after the expiration of the 30 day period. Vouchers submitted to ACP later than forty-five days following the disposition of the case must be accompanied by an affirmation stating the extraordinary circumstances responsible for the delay of submission and that no claim for payment on the matter was previously made nor was payment received.

#### F. Interim Vouchers

The voucher is to be submitted at the completion of a matter. Should circumstances exist that the attorney believes may justify the submission of an interim voucher, the attorney must obtain both the permission of the trial court and the Director of the ACP.

#### G. Appeals

At the conclusion of the appeal, the appeals voucher (Request for Compensation and Expenses of Appointed Counsel under Article 18-B of the County Law (Second Judicial Department) should be submitted for approval directly to the Law Guardian Program Office located at 335 Adams Street, Ste. 2400, Brooklyn, New York, 11201. The signature on the voucher of the trial court judge is not required. Attachments to the voucher must include a copy of your brief together with relevant documentation including any motion papers that were prepared.

#### H. Attorney Compensation Rates

ACP representation in Family Court and appellate court proceedings is compensated at the rate of \$75 per hour. This rate applies to both in-court and out-of-court services.

*Services in Family Court proceedings provided prior to January 1, 2004 are compensated at \$25 per hour for out-of-court services and \$40 for in-court services. Services in appellate court proceedings provided prior to January 1, 2004 are charged at \$40 regardless of whether the services were provided in-court or out-of-court.*

#### I. Preparation of Vouchers

The nature of any out-of-court work performed must be specified with particularity on the voucher worksheet.

Vouchers are processed for payment only if the voucher and accompanying worksheet are printed legibly and are filled out completely with enough detail to sufficiently inform the ACP of the nature of the work. Failure to be specific on the worksheet or to create illegible voucher entries may result in the return of the voucher by ACP or the reduction of the voucher by the trial or appellate courts.

Attorneys and experts may bill only for services performed by them (*i.e.* services performed by paralegals, secretaries or other support staff should not be included in attorney or expert billings.)

##### 1. Billing Increments for Attorneys:

Services are to be billed by the actual minutes/hours expended to perform the service. Billing is not to be billed as increments of tenths of hours.

## 2. Billing Prohibitions:

- i. Double billing. Using a time period to bill for more than one matter. An example of double billing is to bill for an intake shift and to bill for the same time period on a case voucher.
- ii. Duplicate billing. Two examples – billing the same time segment as previously billed for the same client date and time of service.
- iii. Worksheet errors. Attorneys must indicate specific times that their service activities occur, not a blanket range, i.e. 9:00 as start time and 5:00 as Finish time with indication of 2 hours in-court work. Vouchers that do not give exact times of service will be returned to the submitting party.

## J. Total Case Billing

The statutory maximum for billing in a single case is \$4,400. When making a request for compensation in excess of the statutory maximum, an affirmation of “extraordinary circumstances” must be submitted with the voucher. The affirmation must set forth the specific circumstances that justify the excessive compensation. Examples of justification include:

1. Complex factual or legal issues
2. Novel issues of law requiring extensive legal research
3. Lengthy trials or other in-court proceedings

## K. Reimbursement of Expenses

Complete documentation, including all receipts and expense itemization, is required in order to reimburse attorneys for expenditures reasonably incurred. The following are acceptable forms of receipts:

- Copies of canceled checks (front and back)
- Vendor bills sent with bank statement indicating that a check was negotiated by the vendor
- Legible payment receipts with vendor acknowledgement of full payment

### 1. *Permissible expenses include:*

- Long distance telephone and fax charges
- Photocopying: there is a \$.15 cents per page limit, and the number of copies must be indicated.
- Postage: Federal Express, Certified Mail, and other similar methods may be considered for reimbursement.
- Witness fees and process service may be considered for payment
- Metrocards representing one-way fares provided to respondents

## 2. *Non-compensable billing:*

- Administrative tasks or office overhead
- Voucher preparation
- Preparation of time records
- Preparing envelopes or labels
- Preparing packages for mailing

### L. Maintenance of Time Records

Attorneys are expected to maintain case files containing contemporaneous time records for each client, separate from his or her vouchers. These records should include a daily log or diary that must minimally include the client's name, the date of the activity, the amount of time expended, and a description of the work performed. Descriptions should be sufficiently detailed to inform of the nature and extent of the services performed. Specific times must be indicated for each activity noted.

### III. **Expert Services**

Attorneys requiring the services of an expert, other than court reporter services, must obtain a court order ex-parte describing with specificity, the rate of the expert (the Chief Administrator of the Courts adopts rate guidelines for non-lawyer professionals, pursuant to County Law §722-c). The Court Order must also describe in detail the services to be performed by the expert as well as limit the cost of the expert services. Should the cost exceed the amount on the original Order, the attorney must secure a Supplemental Order from the Court.

Should the compensation requested exceed the statutory maximum of \$1,000.00, the attorney must submit an affirmation of "extraordinary circumstances" to the Court.

#### A. Approved Experts from ACP and the Appellate Division

The Appellate Division's First and Second Judicial Departments and the ACP maintain separate lists of experts available for use by attorneys and judges for 18-B service.

#### B. The Appellate Divisions' list of approved Forensic Mental Health Professionals

The First and Second Judicial Departments maintain a list of approved mental health professionals in the Mental Health Professionals Panel Directory.

#### C. ACP Expert Roster

The ACP maintains a list of experts approved to provide services. In order to be compensated for services, experts are vetted for the ACP's approved Expert Roster ("the Roster"). An expert whose name does not appear on the Roster may also be appointed, but to be eligible for payment (s)he must complete the expert application

process and be approved for the Roster.

Instructions for applying to the Roster are as follows:

- i. Experts must apply to be included on the Roster using the ACP Expert Roster Application and must submit all required documentation outlined therein. Applicants are subject to verification of credentials, including but not limited to:
- ii. Verification of license or certification in the field of expertise, if applicable
- iii. Training appropriate to perform the services outlined in the court order.

#### D. One-Time Experts

Experts who expect to render 18-B services one time only, may complete an abbreviated application process. These experts are required to submit the following documents to be eligible:

- i. Curriculum Vitae
- ii. City of New York Substitute W-9 form
- iii. A government-issued identification form
- iv. Licensure, if applicable

Applicants are subject to verification of credentials, including but not limited to:

- i. Verification of license or certification in the field of expertise, if applicable.
- ii. Training appropriate to perform the services outlined in the court order.

Experts who apply as one-time experts but subsequently wish to be compensated for a second or subsequent case must complete the full application process for inclusion on the Expert Roster.

ACP's Expert Roster is available for review on 18-B Web at [www.nyc.gov/18B](http://www.nyc.gov/18B). . Please note that the Web list includes only those experts who have been vetted for the Roster. Inquiries may be made to the Background Review Manager concerning expertise not currently reflected on the Roster but maintained by ACP pending vetting.

#### E. Billing Increments for Experts

Services are to be billed by the actual minutes/hours expended to perform the service. Billing may not be made in tenths of hours.

#### F. Enhanced Rate Requests

The Chief Administrator of the Courts sets hourly rates for payment of non-lawyer professionals under Judiciary Law Section 35 and County Law Section 722-c. Experts seeking enhanced rates must specify that enhanced

rate on the Order. Once received by ACP, the voucher is forwarded to the Administrative Judge for approval of the enhanced rate.

If an expert has been compensated at an enhanced rate in the past and where that expert was paid through public funds, the expert must provide in writing to the Deputy Director of Payments cases on which s(he) received this enhanced rate, the year(s) the services were provided and the rate at which the expert was compensated.

#### G. Pre-approval of ancillary expenses over \$500

Whenever an expert expects expenses of representation to exceed \$500.00, (s)he must first obtain the approval of the Director of the Assigned Counsel Plan.

To obtain pre-approval of the expenses in excess of \$500, a written request must be submitted with an itemized list of expenses the expert expects to incur, and a justification for the reason the additional expense beyond \$500.00 is necessary.

#### H. Non-local Experts

In the event that the required expertise is not available locally and the attorney plans to retain an expert from outside the tri-state area (where significant travel expenses are expected), the attorney must

- i. seek the prior approval of the Director of the ACP.
- ii. alert the non-local expert of guidelines for expert compensation.
- iii. upon approval of the non-local expert by the Director and the Background Review Manager, the expert will proceed through the normal payment process.

#### I. Submitting Expert Vouchers for Payment

After the expert finishes their services on a case, s(he) must complete the ACP 722-c Services – Expert Voucher – Family Court and attach the completed voucher worksheet and the order of assignment. The order of assignment must indicate whether and to what extent the expert is to provide services to adults and juveniles. The ACP Citywide Family Court Expert Voucher must be signed by the attorney assigned to the case when the attorney requests the services of the expert; the attorney, by signing the voucher, certifies to the appropriateness of the services performed and reasonableness of hours billed on the voucher.

Finally, the voucher, the worksheet and order of assignment are provided by the requesting attorney to the last judge assigned to the case, along with a self-addressed, stamped envelope to the Assigned Counsel Plan, 253 Broadway, 2<sup>nd</sup> Floor, New York, New York 10007. Upon review and execution by the judge, the voucher is forwarded to ACP for payment.

Any voucher for expert services in excess of the statutory \$1,000 must be accompanied by an affidavit describing the “extraordinary circumstances” that require the excess expenditure.

#### J. 18-B Web – ACP’s Assignment and Payment System

All experts serving in Family and Criminal Courts as well as Family Court attorneys are transitioning from an outdated database payment system to 18-B Web - an internet-based assignment and payment system used by Criminal Court attorneys since January of 2004.

Upon full integration to the new system, the payment process for those transitioning to this system will be streamlined and efficient and, eventually, totally paperless.

While in this period of transition, vendors note that checks and direct deposit slips do not connect payments to the cases for which the vendor is being compensated. To determine what cases are covered by a check or direct deposit, ACP advises experts and family court attorneys to review the Itemized Payment Statement received attached to their check or direct deposit statement. To determine the case(s) covered, go to [www.nyc.gov/18B](http://www.nyc.gov/18B) and in the "Need Help Reading Your Check?" section, enter the "Vendor Code" along with the "Agreement/Voucher#" found on your Itemized Payment Statement. The case information will be provided to you.

#### IV. **Payment Information for Attorneys and Experts**

##### A. Setting up a NYC Payment Account

Attorneys and experts providing adult indigent services in Family Courts must prepare the following documents in order to be paid by the City of New York for indigent services. These documents must be provided by attorneys and experts at the time of voucher submission, if not before. Vouchers will not be processed until all required documentation receives in-house and NYC Comptroller approval.

All documents required under each vendor category (below) must be sent to the ACP Background Manager. Please email all inquiries concerning required set-up documents to Kate at [KDoherty@cityhall.nyc.gov](mailto:KDoherty@cityhall.nyc.gov) or contact by phone at 212-676-0418.

##### B. Family Court attorneys

To receive payment from ACP for services to indigent adult litigants, Family Court attorneys must provide the following documents to ACP:

1. City of New York Substitute Form W-9. This form enables payment through the city agency, FISA (Financial Information Systems Agency). The W-9 form is available at the NYC Comptroller’s Office website: [http://www.comptroller.nyc.gov/bureaus/acc/w9/substitute\\_w9\\_Form.pdf](http://www.comptroller.nyc.gov/bureaus/acc/w9/substitute_w9_Form.pdf).

The form must indicate “9/07 Revision” in the upper left hand corner or it will be rejected.

2. A letter from the respective Supreme Court Appellate Division Law Guardian Program indicating membership in good standing on the Law Guardian/Assigned Counsel Panel.

### C. Experts

To receive payment from ACP for investigative or expert services rendered on behalf of indigent adult litigants, the following circumstances dictate the requirements:

For Family Court Experts who are currently on the Mental Health Professionals Panel:

1. Copy of the expert's Resource Directory Application
2. City of New York Substitute Form W-9 (see above procedures for Family Court Attorneys)
3. Government –issued photo ID (passport, driver's license or non-driver's license)
4. Resume or CV

In addition to #1-4, interpreters must also provide Office of Court Administration (OCA) ID or letter from OCA confirming registry on the New York State Registry of Voucher Paid Court Interpreters.

### D. For all Experts

1. Complete and notarized Expert Application ("ACP Revised 12-01-06")
2. City of New York Substitute Form W-9 (see above procedures for Family Court attorneys)
3. Government-issued photo ID (passport, driver's license or non-driver's license)
4. Resume or Curriculum Vitae.
5. Three current letters of recommendation

For Experts who seek compensation but not consideration for the ACP Expert Roster. Experts in this category will be compensated for one payment, one-time only.

1. Copy of profession license (if applicable)
2. Resume or Curriculum Vitae
3. Copy of government-issued ID (U.S. Passport, driver's or non-driver's license)
4. City of New York Substitute Form W-9 (see above procedures for Family Court attorneys.)

Direct all queries concerning document requirements to the ACP Background Review Manager, Kate Doherty at [kdoherly@cityhall.nyc.gov](mailto:kdoherly@cityhall.nyc.gov), or 212-676-0418.

Once the papers are approved and filed, the vendor will be placed in the 18-B Web system and eligible for payment.

#### E. Changes in Account Information

Any changes in information provided by the Expert in setting up the ACP payment account must be provided to ACP Payments as soon as possible to ensure that payments are not delayed or misdirected.

Any changes in information provided by the Expert in setting up an ACP payment account must be provided to the Secretary to the Director on business letter head and must include both original information provided as well as the change(s) to be applied to the account information. The Comptroller's Office requires that this document be notarized. In addition, a Substitute W-9 form must accompany the letter and must indicate the updated information.

#### F. Paper Checks

While paper checks are one of two options vendors may choose as the payment vehicle for their ACP payments, the paper check method is discouraged due to a protracted wait for payment by mail as well as the increase in the possibility that the check may be misdirected, lost, destroyed or stolen.

#### G. Electronic Funds Payment (EFT)

The ACP Director recommends that vendors receive their ACP payments through the EFT Direct Deposit Program offered by the city's Department of Finance. Contact Howard Gross at the Department of Finance at (212) 669-2581 for instructions on how to register for this efficient payment option.

#### H. Managing Financial Transactions with the City of New York

Once payment information leaves ACP for upload to FISA for payment by check or direct deposit, vendors may access their current and past financial transaction information with the City via the Payee Information Portal (PIP).

To set up a PIP account, enter <http://a127-pip.nyc.gov/webapp/PRDPIP/SelfService> and follow the directions provided. Should you have any questions concerning use of this service, please contact the FISA Call Center at (212) 857-1449.

#### I. Requests for Voucher Payment Status or other Payment-Related Inquiries

All questions concerning payment and voucher processing must be directed to the payment clerk who is responsible for reviewing that type of voucher. As responsibilities of ACP payment clerks are rotated, attorneys unsure of the clerk handling family court attorneys in the 2<sup>nd</sup> Department should contact the Deputy Director of Payments for this question and for any unresolved issues concerning payments.

ACP requests that payment issues brought to staff at ACP be communicated via e-mail. Email communications eliminate missed calls and allow the clerks to respond when they are not engaged in payment, allowing for faster payments in general.

**Assigned Counsel Plan for the City of New York  
Staff List**

**OFFICE OPERATIONS & PAYMENTS**

Polly Horton, Director.....212-676-0051  
[phorton@cityhall.nyc.gov](mailto:phorton@cityhall.nyc.gov)  
Vacant, Secretary to Director.....212-676-0059  
  
Peter Drury, Deputy Director of Payments.....212-676-0057  
[pdrury@cityhall.nyc.gov](mailto:pdrury@cityhall.nyc.gov)  
  
Any Stanciu, Deputy Director of Audits.....212-676-0087  
[astanciu@cityhall.nyc.gov](mailto:astanciu@cityhall.nyc.gov)  
  
Kate Doherty, Background Review Manager.....212-676-0418  
[kdoherly@cityhall.nyc.gov](mailto:kdoherly@cityhall.nyc.gov)

**PAYMENT**

Krisetta Alexander.....212-676-1469  
[kalexander@cityhall.nyc.gov](mailto:kalexander@cityhall.nyc.gov)  
  
Mila Babushkina.....212-676-0065  
[mbabushkina@cityhall.nyc.gov](mailto:mbabushkina@cityhall.nyc.gov)  
  
Derek Denny.....212-676-0090  
[ddenny@cityhall.nyc.gov](mailto:ddenny@cityhall.nyc.gov)  
  
Alberto Gutierrez.....212-676-0093  
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Deborah Howell.....212-676-0091  
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Vanessa Jenkins.....212-676-0094  
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Mark McCullough.....212-676-0086  
[mmcullough@cityhall.nyc.gov](mailto:mmcullough@cityhall.nyc.gov)  
  
Angelina Morcelo.....212-676-0063  
[amorcelo@cityhall.nyc.gov](mailto:amorcelo@cityhall.nyc.gov)

**FIRST DEPARTMENT ADMINISTRATOR (BRONX & MANHATTAN)**

Jacqueline Flug.....212-676-0061  
[jflug@cityhall.nyc.gov](mailto:jflug@cityhall.nyc.gov)  
  
Lorraine Watson.....212-676-0081  
[lwatson@cityhall.nyc.gov](mailto:lwatson@cityhall.nyc.gov)

**SECOND DEPARTMENT ADMINISTRATOR (KINGS, QUEENS & RICHMOND)**

Barbara DiFiore.....212-676-0055  
[bdifiore@cityhall.nyc.gov](mailto:bdifiore@cityhall.nyc.gov)  
  
Jennifer Regis.....212-676-0099  
[jregis@cityhall.nyc.gov](mailto:jregis@cityhall.nyc.gov)

## Procedures for Submission of Vouchers

Family Court Assigned (“18-B”) vouchers should not be sent to the Appellate Division for processing. These vouchers, for payment by New York City for the representation of adults, must be sent to the Assigned Counsel Program, 253 Broadway, Suite 200, New York, New York, 10007.

Law Guardian vouchers, and Law Guardian Expert vouchers pursuant to Section 35 of the Judiciary Law for services rendered in connection with *Family Court* matters, and 18-B Appeals vouchers should be submitted for processing to the Law Guardian Program, Appellate Division, Second Judicial Department, 335 Adams Street, 24<sup>th</sup> Floor, Brooklyn, NY 11201.

Judiciary Law § 35 (8) vouchers must be approved by the Supreme Court Justice and should then be directed to the Chief Clerk of the Court for payment processing by the appropriate District Administrative Judge’s office.

In *Supreme Court* cases, experts are to bill the State on a JC-2020 voucher. Please familiarize yourself with the Compensation and Reimbursement section pertaining to experts (see Table of Contents, Chapter V - Administrative Policies and Procedures.)

We have prepared the chart below for easy reference:

Sent to Law Guardian Program Office

County Law 18-B Appellate Vouchers

Law Guardian Vouchers

Law Guardian Expert Vouchers (JC-2020)

Sent to the Assigned Counsel Plan

County Law 18-B Vouchers

County Law 722-c Vouchers

Sent to the Chief Clerk of the Supreme Court

Judiciary Law § 35 (8) Vouchers

Expert JC-2020 Vouchers

## **OBTAINING TRIAL TRANSCRIPTS**

To obtain transcripts for use in representing a client in a trial court, assigned counsel must obtain a Minute Order Form from the office of the Chief Stenographer of your local Family Court, and then take the following steps:

1. The assigned counsel must complete the top portion of the Minute Order Form and present the form to the Family Court for the judge's authorization.
2. The Family Court will then retain a copy of the form and return the remaining copies to the assigned counsel for transmittal to the court reporter.
3. Upon receiving the form with the judge's endorsement, the court reporter will prepare two certified copies of the transcript, file one copy with the Family Court Clerk, and deliver the other copy to the assigned counsel.
4. When the transcript is delivered, the assigned counsel will endorse the appropriate portion of the form.
5. The reporter will retain a copy of the form and forward the remaining copies, together with a completed Family Court Voucher to the Assigned Counsel Program office for review and payment.

The expense involved in ordering transcripts from court reporters is a County (city) expense unless the court has determined that the parties are responsible for the cost.

Utilization of these forms will make it unnecessary for assigned counsel to incur out-of-pocket expenses when ordering transcripts.

A copy of the New York State Family Court Minute Order Form will be found in the Assigned Counsel Forms section of this Handbook.

## **OBTAINING MECHANICALLY RECORDED TRANSCRIPTS**

To request a transcript of a mechanically recorded proceeding, assigned counsel must complete a Transcript Request Form and a Voucher for Court Reporter Services.

Completed forms are to be submitted to the Part Clerk with the Order for Approval of Transcript of Record.

The Part Clerk will then attach the Transcript Request Form, Voucher and Order and deliver them to the appropriate clerk's office.

A copy of the Transcript Request Form, the Voucher for Court Reporter Services and the Order for Approval of Transcript of Record will be found in the Assigned Counsel Forms section of this Handbook.

**FAMILY COURT ASSIGNED COUNSEL  
SECOND AND ELEVENTH JUDICIAL DISTRICTS  
(KINGS, QUEENS AND RICHMOND COUNTIES)**

**d. Relevant Forms**

**VOUCHER FOR COMPENSATION OF APPOINTED COUNSEL  
UNDER ARTICLE 18-B  
FAMILY COURT**

Attorney \_\_\_\_\_ Respondent \_\_\_\_\_  
 Address \_\_\_\_\_ Docket(s) \_\_\_\_\_  
 \_\_\_\_\_ Docket(s) \_\_\_\_\_  
 Telephone # \_\_\_\_\_ County \_\_\_\_\_  
 (Please include every docket No. filed in connection with the proceeding)  
 I.D. or S.S. # \_\_\_\_\_ Number of Petitions \_\_\_\_\_

Pursuant to the authorization contained in the order appointing counsel in the above proceeding, claim is hereby made for compensation and expenses of representation:

**LIST TIME SPENT IN OPEN COURT AND TIME SPENT IN PREPARATION (OUT-OF-COURT) ON THE ATTACHED WORKSHEET:**

**I. EXPENSES OF REPRESENTATION (ITEMIZE AND ATTACH RECEIPTS)**

Do not include office overhead expenses (see 22 NYCRR, Sec. 606.3) AMOUNT  
\$ \_\_\_\_\_

**II. DISPOSITION**

_____ Dismissed	_____ Suspended Judgment	_____ Order of Custody/Visitation
_____ Withdrawn	_____ Placement Relative/Agency	_____ Order of Protection
_____ Foster Care Continued	_____ Return of Child to Parent	_____ Termination of Parental Rights
_____ Voluntary Surrender	_____ Order of Support	_____ Order of Filiation
_____ Adoption		

Other \_\_\_\_\_

**III. Has compensation and/or reimbursement in this case been previously applied for or received?**

Yes \_\_\_\_\_ No \_\_\_\_\_ If Yes, specify amount and circumstances \_\_\_\_\_

The undersigned as attorney-at-law of the State of New York, as assigned counsel for the aforesaid respondent hereby affirms under penalty of perjury that the number of hours and the expenses set forth above are correct; that except as set forth above, no payment has been received or requested from the Comptroller of the City of New York in accordance with Article 18B of the County Law, for this or any other assigned case, which is duplicative of the time period or hours of the day covered by the voucher herewith submitted by me.

Attorney Signature \_\_\_\_\_ Date Submitted \_\_\_\_\_

**Attorney Request**

To 12/31/03		After 01/01/04	
Hours in-court _____ @ \$40.00	\$ _____	Hours in-court _____ @ \$75.00	\$ _____
Hours out-of-court _____ @ \$25.00	\$ _____	Hours out-of-court _____ @ \$75.00	\$ _____
Expenses (Receipt must be attached)	\$ _____	Expenses (Receipt must be attached)	\$ _____
	\$ _____		\$ _____
Total		Total	

Total Requested \$ \_\_\_\_\_

**FOR COURT USE ONLY**

To 12/31/03		After 01/01/04	
Hours in-court _____ @ \$40.00	\$ _____	Hours in-court _____ @ \$75.00	\$ _____
Hours out-of-court _____ @ \$25.00	\$ _____	Hours out-of-court _____ @ \$75.00	\$ _____
Expenses (Receipt must be attached)	\$ _____	Expenses (Receipt must be attached)	\$ _____
	\$ _____		\$ _____
Total		Total	

Total Approved \$ \_\_\_\_\_

\_\_\_\_\_  
 Judge Signature and Stamp

\_\_\_\_\_  
 Date

Voucher must be submitted within 45 days of disposition

ACP 8-08





**ASSIGNED COUNSEL PLAN FAMILY COURT  
INTAKE VOUCHER CITYWIDE**

MAIL COMPLETED FORM TO: 253 Broadway – Room 200, New York, New York 10007 (212 676-0066)

Attorney Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Social Security/Tax I.D.# \_\_\_\_\_

---

**INTAKE SHIFT INFORMATION**

County: \_\_\_\_\_

Date of Service: \_\_\_\_\_

Part: \_\_\_\_\_

From: \_\_\_\_\_ To: \_\_\_\_\_ Lunch Hour \_\_\_\_\_ Total Hours Worked \_\_\_\_\_ Amount Requested \_\_\_\_\_

**MUST BE COMPLETED BY ATTORNEY BEFORE SUBMISSION**

**ADULTS**

**NUMBER OF CASES HANDLED:** \_\_\_\_\_

**CASES DISPOSED OF:** \_\_\_\_\_

**TOTAL CASES DISPOSED RETAINED** \_\_\_\_\_

---

**CERTIFIED CORRECT:** No payment or promise of payment has been requested or accepted for representing the parties listed above. Any future vouchers submitted for other services on those matters will not include a payment for these intake services. The undersigned, an attorney-at-law in the State of New York affirms the foregoing to be true under penalty of perjury.

\_\_\_\_\_  
**ATTORNEY SIGNATURE**

\_\_\_\_\_  
**DATE**

---

**FOR COURT USE ONLY**

\$

\_\_\_\_\_  
**PAYMENT APPROVED**

\_\_\_\_\_  
**JUDGE SIGNATURE & STAMP**

\_\_\_\_\_  
**DATE**

**Voucher must be submitted within 45 days of Intake Shift**

Appellate Panel

**VOUCHER FOR COMPENSATION AND EXPENSES OF APPOINTED COUNSEL  
UNDER ARTICLE 18-B OF THE COUNTY LAW**

**TO THE COMPTROLLER OF THE CITY OF NEW YORK**

S. S. # \_\_\_\_\_  
T.I.N.# \_\_\_\_\_

\_\_\_\_\_  
(Name of Payee)

\_\_\_\_\_  
(Address - Street and City)

Pursuant to the authorization by order of the Appellate Division, Second Judicial Department of the State of New York, dated \_\_\_\_\_ appointing counsel in the case of PEOPLE OF THE STATE OF NEW YORK, Respondent, against \_\_\_\_\_ Appellant, Appeal No. \_\_\_\_\_, claim hereby is made for compensation and expenses of representation.

I. NATURE OF APPEAL \_\_\_\_\_

II. ARGUED  SUBMITTED  DATE: \_\_\_\_\_

III. DECISION - Affirmed  Reversed  Modified  Date: \_\_\_\_\_

IV. DID YOU REPRESENT APPELLANT IN LOWER COURT? \_\_\_\_\_

V. THE RECORD CONSISTS OF \_\_\_\_\_ PAGES OF TESTIMONY AND \_\_\_\_\_ OTHER DOCUMENTS

VI. TIME SPEND IN OPEN COURT	<i>Date</i>	<i>No. of Hours</i>
	_____	_____

VII. TIME SPENDING PREPARATION (OUT OF COURT)	<i>No. of Hours</i>
(a) Interviews and conferences . . . . .	_____
(b) Obtaining and reviewing records . . . . .	_____
(c) Legal research and brief writing . . . . . (Also submit a copy of brief with claim)	_____
(d) Other (submit an affidavit detailing the dates and number of hours expended in conjunction with the services rendered under Item VII.)	_____

VIII. EXPENSES OF REPRESENTATION (Itemize):

\_\_\_\_\_ \$

\_\_\_\_\_ \$

\_\_\_\_\_ \$

IX. If compensation and/or reimbursement for representation in this case has been applied for or received, so state: \_\_\_\_\_

AMOUNT CLAIMED

Partial \_\_\_\_\_ Final \_\_\_\_\_

Item VI \_\_\_\_\_ hrs.

Item VII \_\_\_\_\_ hrs.

Item VIII \$ \_\_\_\_\_

Certified Correct. Payment has not been received and, except as noted in Item IX above, no payment or promise of payment has been requested or accepted for representing the above appellant. The undersigned, an attorney at law of the State of New York, as assigned counsel for the appellant aforesaid, affirms the foregoing to be true under penalty of perjury.

Dated: \_\_\_\_\_ 20

-----  
Assigned Counsel

**DO NOT WRITE IN THIS SPACE  
FOR COURT USE ONLY**

AMOUNT ALLOWED

Item VI . . . . .	\$ _____
Item VII . . . . .	\$ _____
Item VIII . . . . .	\$ _____
Total . . . . .	\$ _____

Dated: \_\_\_\_\_ 20

-----  
Presiding Justice of the Appellate Division,  
Second Judicial Department

**ASSIGNED COUNSEL PLAN  
722-c SERVICES - EXPERT VOUCHER  
FAMILY COURT**

RESPONDENT'S NAME \_\_\_\_\_

NAME OF PAYEE \_\_\_\_\_

DOCKET(S)# \_\_\_\_\_

EXPERTISE \_\_\_\_\_

DATE OF ORDER OF ASSIGNMENT  
(ORDER MUST BE ATTACHED)

S.S. OR TAX PAYER I.D.# \_\_\_\_\_

COUNTY \_\_\_\_\_

COURT \_\_\_\_\_

STREET ADDRESS \_\_\_\_\_

ASSIGNED ATTORNEY \_\_\_\_\_

CITY, STATE, ZIP CODE \_\_\_\_\_

JUDGE \_\_\_\_\_

( )  
TELEPHONE NUMBER \_\_\_\_\_

THIS VOUCHER REPRESENTS A CLAIM MADE FOR COMPENSATION FOR SERVICES RENDERED:

EXPERT REQUEST (WORK SHEETS MUST BE COMPLETED - HOURS ON WORKSHEET MUST AGREE WITH TOTAL HOURS BILLED).

A. TOTAL HOURS BILLED \_\_\_\_\_ AT \$ \_\_\_\_\_ FEE /HOURLY RATE = \$ \_\_\_\_\_

WAS THIS CASE APPORTIONED YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES HOW MANY ADULTS \_\_\_\_\_ CHILDREN \_\_\_\_\_

BILLED TO CITY: \$ \_\_\_\_\_ BILLED TO STATE: \$ \_\_\_\_\_ BILLED PRIVATELY: \$ \_\_\_\_\_

B. ITEMIZED EXPENSES (ATTACH ADDITIONAL SHEET IF NECESSARY; RECEIPT MUST BE ATTACHED)

1. \_\_\_\_\_ \$ \_\_\_\_\_

2. \_\_\_\_\_ \$ \_\_\_\_\_

3. \_\_\_\_\_ \$ \_\_\_\_\_

(MUST BE COMPLETED)

HAS COMPENSATION AND/OR REIMBURSEMENT IN THIS CASE PREVIOUSLY BEEN APPLIED FOR OR RECEIVED?

YES \_\_\_ NO \_\_\_ IF YES, SPECIFY AMOUNT AND CIRCUMSTANCES: \_\_\_\_\_

THE ABOVE INFORMATION IS CERTIFIED CORRECT. SWORN TO BEFORE ME THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, \_\_\_\_\_.

CLAIMANT \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_

<p>EXPERT COMPUTATION</p> <p>_____ HRS _____ RATE \$ _____</p> <p>EXPENSES \$ _____</p> <p><b>TOTAL</b> \$ _____</p> <p>MUST BE LEGIBLE RETAIN A COPY FOR YOUR RECORD</p>	<p align="center"><b>(DO NOT WRITE BELOW THIS LINE)</b> APPROVED BY COURT</p> <p>_____ HRS \$ _____</p> <p>EXPENSES \$ _____</p> <p><b>TOTAL</b> \$ _____</p> <p>_____ APPROVED AS SUBMITTED _____ ADJUSTED</p> <p>COMMENTS: _____ _____ _____</p> <p>_____ JUDGE SIGNATURE AND STAMP</p>
---	---



ASSIGNED COUNSEL VOUCHER - JUDICIARY LAW 35(8)

STATE OF NEW YORK  
UNIFIED COURT SYSTEM

VOUCHER NO

COURT/ AGENCY		ORIGINATING AGENCY CODE		INTEREST ELIGIBLE (Y/N) <b>Y</b>	
PAYMENT DATE (MM) (DD) (YY) / /		OSC USE ONLY		LIABILITY DATE (MM) (DD) (YY) / /	
PAYEE ID (S.S. NO)	ADDITIONAL	ZIP CODE	ROUTE	PAYEE AMOUNT	
PAYEE NAME (LIMIT TO 30 SPACES)			IRS Code (Formerly 1099) <b>N</b>	Merch/inv. Rec'd Date (MM) (DD) (YY) / /	
ADDRESS (LIMIT TO 30 SPACES)			STATISTIC TYPE	STATISTIC	
ADDRESS (LIMIT TO 30 SPACES)			Ref/Inv. No. (Limit to 20 Spaces) (MM)		
CITY (LIMIT TO 20 SPACES)		STATE	ZIP CODE	Ref/Inv. Date (MM) (DD) (YY) / /	

For legal services rendered pursuant to subdivision 8 of section 35 of the Judiciary Law as assigned counsel in the Supreme Court of \_\_\_\_\_ County during the period from \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ to \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ for \_\_\_\_\_, docket / index / file number \_\_\_\_\_.

**INSTRUCTIONS TO ATTORNEY:** An Attorney Activity Sheet must be prepared and the totals transferred to the appropriate categories (I, II, III) below. Both documents must be submitted for payment. Please enter the primary proceeding code (case prefix) and number of petitions covered by this voucher in the appropriate spaces below, and check the original copy on the bottom left of this form.

Type of Proceeding (if more than one, enter code for main proceeding only): _____  (A) Adoption (B) Commitment of Guardianship & Custody (D) Juvenile Delinquency (E) J.D. Designated Felony (F) Support (G) Guardianship (K) Foster Care Review (L) Foster Care Approval (M) Consent to Marry (N) Abuse/Neglect  (O) Family Offense (P) Paternity (S) PINS (U) Uniform Interstate Support Law (V) Custody/Visitation (Z) Miscellaneous (1) Appeal (-SUB) Substitute Appearance	I. TIME SPENT OUT OF COURT	TOTAL HOURS	AMOUNT
	II. TIME SPENT IN COURT		
	III. EXPENSE OF REPRESENTATION		

TO BE APPROVED BY JUDGE

TOTAL

**FOR ASSIGNED COUNSEL USE:** I hereby certify that the above statement of the legal services provided is true and correct; that no other claim for payment has been made for the time stated therein; and that no part thereof has been paid except as stated therein and that the balance stated is due and owing and that taxes from which the State is exempt are excluded therefrom.

STATE COMPTROLLER'S PRE-AUDIT

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

Verified

Audited

Special Approval  
(As Required)

CERTIFIED FOR  
PAYMENT  
OF THE  
TOTAL FEE AMOUNT

**FOR USE OF SUPREME COURT JUSTICE:** I hereby certify that in accordance with the above statement of services, the total fee awarded for such services is fair and just and is set forth above.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
COUNTY

**FOR UCS ADMINISTRATIVE PURPOSES ONLY:** I hereby certify that this voucher is correct and just and payment is hereby approved.

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
DATE

CHECK (X) ORIGINAL  
COPY ONLY

EXPENDITURE							
DEPT	COST CENTER	VAR	YR	OBJECT	ACCUM		AMOUNT
					DEPT	STATE	
05				56320			
05				56320			
05				56320			



SEE INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING

STATE  
OF  
NEW YORK

VOUCHER FOR ASSIGNED COUNSEL,  
PSYCHIATRIST OR PHYSICIAN

Voucher No.
-------------

<input type="checkbox"/> Originating Agency	Orig. Agency Code	Interest Eligible (Y/N)	P-Contract
Payment Date (MM) (DD) (YY) / /	OSC Use Only	Liability Date (MM) (DD) (YY) / /	
<input type="checkbox"/> Payee ID	Additional	Zip Code	Route
Payee Name (Limit to 30 spaces)		IRS code	IRS Amount
Payee Name (Limit to 30 spaces)		Stat. Type	Statistic
Address (Limit to 30 spaces)		Indicator-Dept/County	Indicator-Statewide
Address (Limit to 30 spaces)		<input type="checkbox"/> Ref/Inv. No./Surname	
City (Limit to 20 spaces) (Limit to 20 spaces) →		State	Zip Code
		Ref/Inv. Date (MM) (DD) (YY) / /	
		Ref/Inv. Date (MM) (DD) (YY) / /	

6. NATURE OF PROCEEDING (Check One) <input type="checkbox"/> HABEAS CORPUS <input type="checkbox"/> OTHER CIVIL PROCEEDING	STATUTORY AUTHORITY PAYMENT _____	JURISDICTION OF COURT (Check One) <input type="checkbox"/> ORIGINAL <input type="checkbox"/> APPELLATE
---	--------------------------------------	---

7. REQUIRED BILLING INFORMATION

ALL SECTIONS MUST BE COMPLETED FOR PAYMENT TO BE MADE

A. Type of Service rendered  Legal  Psychiatrist  Physician  Psychologist  Other

B. Judge's Name: \_\_\_\_\_

C. Court Docket/Index/File Number(s): \_\_\_\_\_

8.

DATE(S)	SUMMARY OF SERVICES PROVIDED:	AMOUNT	
		DOLLARS	CENTS
TOTAL FEE:			

TWO OR MORE PROFESSIONALS ASSIGNED TO CASE (PHYSICIANS, PSYCHIATRISTS, OR COUNSEL)

9. CERTIFICATION: I HEREBY CERTIFY THAT THE ABOVE STATEMENT OF SERVICES IS TRUE AND CORRECT, AND THAT NO PART THEREOF HAS BEEN PAID EXCEPT AS STATED THEREIN AND THAT THE BALANCE STATED IS DUE AND OWING AND THAT TAXES FROM WHICH THE STATE IS EXEMPT ARE EXCLUDED THEREFROM.		
_____	_____	_____
SIGNATURE	DATE	SOCIAL SECURITY NUMBER
10. COURT USE: I HEREBY CERTIFY THAT IN ACCORDANCE WITH THE ABOVE STATEMENT OF SERVICES, THE TOTAL FEE AWARDED FOR SUCH SERVICES IS FAIR AND JUST AND IS SET FORTH ABOVE.		
_____	_____	_____
SIGNATURE	DATE	SOCIAL SECURITY NUMBER
11 FOR APPELLATE DIVISION USE ONLY: I HEREBY CERTIFY THAT THIS VOUCHER IS CORRECT AND JUST AND PAYMENT IS HEREBY APPROVED.		
_____	_____	
SIGNATURE	DATE	

Expenditure					Liquidation						
Cost Center Code					Object	Accum Dept. Statewide	Amount	Orig. Agency	PO/Contract	Line	F/P
Dept.	Cost Center Unit	Var.	Yr.								

**INSTRUCTIONS FOR PREPARING VOUCHERS FOR  
ASSIGNED COUNSEL, PSYCHIATRISTS OR PHYSICIANS (JC 2020)**

Assigned Counsel, Psychiatrist or Physician must complete the numbered blocks on the face of the form as indicated below:

**Box 3. Payee ID** - Enter the nine digit federal social security number. If payment should be made to your firm for tax purposes, enter the firm's federal tax identification number here.

**Box 4. Payee name/address/city/state/zip code** - Enter full name and address, including zip code. If the business identification number is used in Box 3 above, enter the firm's name in the first payee name position and the individual's name in the second payee name position.

**(Un-numbered) Indicator-Dept./County** - Enter the County in which services were performed. This is limited to five spaces so use the first five letters of the County name.

**Box 5. Ref/Inv.No/Surname** - Enter the last name of the subject for whom the services were performed. This box is limited to twenty spaces. Use the Ref/Inv. date box below for the date(s) services were performed.

**Box 6. Nature of Proceeding** - Check appropriate box. For type of proceeding, indicate the statutory authority for payment. Check if court is original or appellate jurisdiction. (If you do not know the statute, this information will be provided by the court.)

**Box 7. Required Billing Information** - Indicate in items A through D, respectively, the type of service rendered, the judge's name, court docket index file number(s), and the period of service rendered.

**Box 8. Summary of Services Provided** - Enter the date(s), service description and dollar amount to be reimbursed. Enter the total fee being charged in the "Total Fee" box.

**Box 9. Certification** - The individual or person authorized to claim fees on behalf of the firm must sign and date. Enter the Social Security identification number only if different than box 3, payee identification number.

**Judge/Justice Making Assignment:**

1. Review entire form as submitted by court-appointed professional, including the statutory authority cited, for accuracy and completeness.
2. Indicate, in the appropriate box, whether more than one counsel, psychiatrist or physician has been assigned to this case.
3. Insure that the total fees claimed are within the guidelines established by Administrative Order of the Chief Administrator transmitted as Budget Bulletin Number 223. Adjust the total fee line as appropriate.
4. If acceptable, sign and complete box 10 for court use, including signature, date and county of assignment.
5. As soon as possible for prompt payment, submit the original and one file copy to the Appellate Division Administrative Office and retain one copy for the Court's file.

**Appellate Division Only:**

1. Enter all fiscal data, including originating agency, agency code liability date (normally the last date of service), Merchandise Invoice Received date (MIR), IRS Code, expenditure data and assignment of voucher number.
2. An employee authorized to approve fiscal documents must sign and date block 11, **For Appellate Division Use Only. Vouchers must be received by OSC within 22 days of the MIR date in order to avoid interest penalties.** The MIR Date is the date the voucher was received by the local court.

THIS FORM IS NOT TO BE  
USED TO ORDER TRANSCRIPTS  
UNDER JUDICIARY LAW 299

**NEW YORK STATE FAMILY COURT  
MINUTE ORDER FORM AND RECEIPTS**

MATTER OF \_\_\_\_\_

(Check one)

\_\_\_\_ Law Guardian Assigned to Juvenile

\_\_\_\_ 18-B Counsel Assigned to Adult

<p><b>I. IMPORTANT JUDGE MUST INITIAL THIS BOX IF DAILY COPY IS ORDERED</b></p> <p><input type="checkbox"/></p>	<p>DATE OF ORDER: _____ DATE REQUIRED: _____          COURT REPORTER: _____          (Print)          DOCKET NUMBER: _____ COUNTY: _____          PART: _____ JUDGE: _____          DATE(S) OF PROCEEDING: _____ TOTAL COPIES: _____          TYPE OF ORDER (Check One)  <input type="checkbox"/> Daily (Next Day Delivery) <input type="checkbox"/> EXPEDITED (Three Day Delivery)</p>
<p><b>II. COURT'S ORDER AND AUTHORIZATION FOR MINUTES</b></p>	<p>IT IS HEREBY ORDERED, that the above-named reporter(s) is (are), authorized pursuant to appropriate states, to furnish minutes in the above action to:          (check appropriate box) <input type="checkbox"/> Court <input type="checkbox"/> Assigned 18-B Counsel (Adult)  <input type="checkbox"/> Assigned Law Guardian (Juvenile)          DATE: _____ HON.: _____</p>
<p><b>III. COURT, ASSIGNED 18-B COUNSEL AND/OR ASSIGNED LAW GUARDIAN RECEIPT OF MINUTES</b></p>	<p>This is to acknowledge receipt of a copy of minutes in the above-entitled action, consisting of _____ pages.  <input type="checkbox"/> DAILY (Next Day Delivery) <input type="checkbox"/> EXPEDITED (Three Day Delivery)          DATE: _____ HON.: _____ J.F.C          COUNSEL SIGNATURE: _____ PRINT NAME _____          COUNSEL SIGNATURE: _____ PRINT NAME _____          COUNSEL SIGNATURE: _____ PRINT NAME _____</p>
<p><b>IV. RECEIPT OF MINUTES FROM RECORD ROOM/CLERK</b></p>	<p>RECEIVED from the above-named Reporter(s) original for Court file, pursuant to Order of Appellate Division, in the above-entitled action, consisting of _____ pages.          Date: _____          _____          Record Room/Clerk</p>
<p><b>V. INSPECTION AND AUTHORIZATION FOR BILLING</b></p>	<p>MINUTES INSPECTED BY: _____ DATE: _____          REPORTER'S COPY INSPECTED: _____ (Initials of Auditor)          PARTIAL TRANSCRIPT SUBMITTED: _____ (Initials of Auditor)          PAYMENT AUTHORIZED FOR: _____ pages.          _____          Print Name Signature of Auditor</p>

WHITE COPY: OCA-NYC BUDGET OFFICE COPY TRANSCRIPT UNIT  
 GREEN COPY: AUTHORIZATION FOR BILLING  
 PINK COPY: AUDITOR'S COPY  
 GOLD COPY: COURT REPORTER'S COPY

**IMPORTANT:  
DO NOT DETACH WHITE, GREEN &  
YELLOW PAGES**

**FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF**

**LAW GUARDIAN/ASSIGNED COUNSEL  
REQUEST FOR TRANSCRIPT FROM MECHANICAL RECORDING**

**TO:** \_\_\_\_\_  
**SPECIAL PROJECTS CLERK**

I, \_\_\_\_\_, hereby request a transcript of the proceeding heard before  
Judge \_\_\_\_\_ on the date and for the case indicated below.

**In the Matter of:** \_\_\_\_\_ **Petitioner**  
\_\_\_\_\_ **Respondent**

**Date of hearing:** \_\_\_\_\_ **Docket Number:** \_\_\_\_\_

**Tape recorder counter numbers begin at** \_\_\_\_\_ **and end at** \_\_\_\_\_.

**ORIGINAL TRANSCRIPT TO BE SUBMITTED TO THE COURT.**

**COPY OF TRANSCRIPT TO BE FORWARDED TO:  
(Person requesting transcript:)**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature**

**Transcript Received by:** \_\_\_\_\_ **on** \_\_\_\_\_

**VOUCHER FOR COURT REPORTER SERVICES  
RENDERED UNDER SECTION 722-c OF THE COUNTY LAW**

Name: \_\_\_\_\_ SS. (or TIN) # \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Pursuant to the authorization in the attached court order with respect to the following case:

\_\_\_\_\_ Court of the State of New York County of \_\_\_\_\_,  
Docket # \_\_\_\_\_.

Title of case: (List full names of all litigants)

\_\_\_\_\_  
\_\_\_\_\_

Claim is made as follows:

Date(s) of proceedings: \_\_\_\_\_

Attorney(s): \_\_\_\_\_

\_\_\_\_\_ pages at \$ \_\_\_\_\_ per page = \$ \_\_\_\_\_

\_\_\_\_\_ pages at \$ \_\_\_\_\_ per page = \$ \_\_\_\_\_

\_\_\_\_\_ pages at \$ \_\_\_\_\_ per page = \$ \_\_\_\_\_ TOTAL: \$ \_\_\_\_\_

Has compensation for the above case previously been applied for, or received? Yes \_\_\_ No \_\_\_

If yes, state reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above information is certified as correct.

\_\_\_\_\_  
Court Reporter's Signature

Sworn to before me this  
\_\_\_ day of \_\_\_\_\_, 20\_\_\_,

\_\_\_\_\_  
NOTARY PUBLIC

This Voucher Audited by: \_\_\_\_\_

At a Term of the Family Court of the State  
of New York, Part \_\_\_\_ thereof, held in and  
for the County of \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_, 20 \_\_\_\_.

**P R E S E N T:**

Hon. \_\_\_\_\_

**JUDGE OF THE FAMILY COURT**

-----X

**In the Matter of**

**Petitioner,      Docket No. \_\_\_\_\_**

**-against -**

**ORDER  
AUTHORIZING  
TRANSCRIPT  
OF RECORD**

**Respondent.**

-----X

**The request, submitted by \_\_\_\_\_, Esq. for a transcript of  
the minutes from a mechanical recording is hereby granted.**

\_\_\_\_\_  
**J.F.C.**

Date

Dear Colleague:

We are in the process of recertifying the members of the Law Guardian/Assigned Counsel Panel for 2009. If you wish to continue on this panel, please complete the attached Application for Recertification and return your original to:

Law Guardian Program  
Second Judicial Department  
335 Adams Street, Suite 2400  
Brooklyn, New York 11201

Or by email: [gchickel@courts.state.ny.us](mailto:gchickel@courts.state.ny.us)

Or by fax: 718-624-5603

If a response is not received by \_\_\_\_\_, it will be assumed that you no longer wish to continue on the panel.

A copy of the recertification procedures and the Law Guardian/Assigned Counsel Evaluation Form are enclosed for your information. (The evaluation form is sent directly by this office to the judges to be completed by them.)

Thank you for your invaluable assistance to the courts and your clients by your continued cooperation in this program.

Very truly yours,

HARRIET R. WEINBERGER

## LAW GUARDIAN/ASSIGNED COUNSEL RECERTIFICATION

1. Every Fall each member of the panel will be polled by email to ascertain whether he or she wishes to continue to serve on the panel the following year. Each member of the panel who wishes to be recertified must complete an application for recertification. (A copy of the application form is attached.)
2. Every Fall the Law Guardian/Assigned Counsel Advisory Committee will request evaluations and recommendations of each panel member from each of the Family/Supreme Court Judges in the county. (A copy of the evaluation form is attached.)
3. Panelists are invited to submit one or more letters of recommendation from attorneys who are not members of any law guardian panel. Preferably, the letter(s) should come from an attorney who has served as opposing counsel in a litigated Family Court matter handled by the panelist.
4. Letters which are submitted pursuant to paragraph 3 must address the following issues: the panelist's integrity, the panelist's familiarity with the area of law in which he practices, and the vigor with which the panelist represents his client's case.
5. Panelists may submit copies of legal memoranda which have been prepared in assigned cases or any other material which the attorney believes may assist the committee in evaluating the attorney's performance as a panel member.
6. All letters of recommendation, other submitted materials and judicial evaluations must be submitted by October 20<sup>th</sup>, 2008 to the Advisory Committee.
7. All law guardians are required to have attended the mandatory training seminar(s) sponsored by the Law Guardian/Assigned Counsel Advisory Committee for their respective judicial district(s) as a condition of recertification.
8. Based upon its review of the materials submitted and seminar attendance, the Advisory Committee shall recommend to the Appellate Division for recertification those members of the panel whom it believes have demonstrated the requisite qualifications.

**APPLICATION FOR RECERTIFICATION  
TO THE LAW GUARDIAN/ASSIGNED COUNSEL PANEL  
FOR 2009**

NAME \_\_\_\_\_

OFFICE ADDRESS \_\_\_\_\_ PHONE(\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ FAX (\_\_\_\_) \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_ CELL (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_ E-MAIL \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_ PHONE (\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_

1. Do you wish to remain an active member of the Law Guardian/Assigned Counsel Panel of the Appellate Division, Second Department? YES \_\_\_\_ NO \_\_\_\_

If yes, answer the following:

2. In which county are you certified? \_\_\_\_\_

3. **If applicable** Do you wish to remain an active member of the Law Guardian/Assigned Counsel Appeals Panel of the Appellate Division 2<sup>nd</sup> Department YES \_\_\_\_ NO \_\_\_\_  
**If you answer yes, please include a copy of a recent brief.**

4. Are you a member of any other assigned counsel plan? YES \_\_\_\_ NO \_\_\_\_

If YES give name and location. \_\_\_\_\_

5. Are you registered with the Office of Court Administration and have you paid the bi-annual fee of \$350.00? YES \_\_\_\_ NO \_\_\_\_

6. Did you attend the Mandatory Seminars given on \_\_\_\_\_ & \_\_\_\_\_? YES \_\_\_\_ NO \_\_\_\_

7. Indicate the number of Law Guardian/Assigned Counsel cases to which you are currently assigned.

\_\_\_\_\_

8. Indicate the number of Law Guardian clients to which you are currently assigned. \_\_\_\_\_

9. Indicate the number of Law Guardian Appeals to which you are currently assigned. \_\_\_\_\_

(a) In how many of those appeals did you represent the appellant? \_\_\_\_\_

**THIS CERTIFICATION MUST BE RETURNED BY \_\_\_\_\_**

Name \_\_\_\_\_

10. Have you registered with the Office of Court Administration as a private pay Law Guardian pursuant to Part 36 of the Rules of the Chief Judge? YES \_\_\_ NO \_\_\_
11. In the past two years, how many cases have you been assigned as a "private pay" Law Guardian? # \_\_\_\_\_
12. Do you have any foreign language proficiency? If yes, please indicate below:  
\_\_\_\_\_
13. Have you within the past year been relieved from an assigned case, due to a conflict with a client or failure to appear? YES \_\_\_ NO \_\_\_  
If so, state particulars: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. Have you within the past year been suspended, removed or asked to resign from any assigned counsel panel? YES \_\_\_ NO \_\_\_  
If so, state particulars: ( use addendum, if necessary ).
15. In the past year, have you been the subject of any complaint or disciplinary proceeding ? YES \_\_\_ NO \_\_\_  
If YES, please indicate the status thereof:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
16. Attorneys who were appointed to the Law Guardian/Assigned Counsel Panel within the past 12 months are required to submit to the Law Guardian Program, at the time of recertification, a complete list of the cases to which they have been assigned since their appointment.  
  
Please include the following information: Name, Docket Number, Judge and Part, including the status of each case.  
  
Please return this list of cases with your completed Recertification Form.
17. The required waiver of confidentiality is attached to this application. YES \_\_\_ NO \_\_\_

**AFFIRMATION**

The undersigned, an attorney duly admitted to practice before the courts of the State of New York, affirms under penalties of perjury and states that the information provided herein is true and accurate.

Date: \_\_\_\_\_

Signature of Affiant: \_\_\_\_\_

**WAIVER OF CONFIDENTIALITY**

I authorize the Grievance Committee of the Second Department, or any other department, to share information relative to me as an attorney with the Law Guardian Program of the Appellate Division, Second Judicial Department.

-----  
Name (Please Print)

-----  
Signature

-----  
Date

Sworn to before me this  
\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

# LAW GUARDIAN/ASSIGNED COUNSEL EVALUATION FORM

\_\_\_\_\_  
Law Guardian/Assigned Counsel

Approximate number of matters before the Court in the past year.

0                      1-5                      6-10                      10+

Please check the appropriate box.

	<u>Poor</u>	<u>Acceptable</u>	<u>Good</u>	<u>Excellent</u>
1. Knowledge of the law:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Legal Judgement:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Preparation of assigned cases:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Competency of advocacy:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Punctuality:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Demeanor:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Candor with the Court:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. If POOR is answered in any one category, please comment. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I recommend:

1. Recertification \_\_\_\_\_

2. Denial of Recertification \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

3. Recertification with Admonition and a period of Probation \_\_\_\_\_

Specific concerns: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge/Justice/Court Atty Referee

Print name \_\_\_\_\_