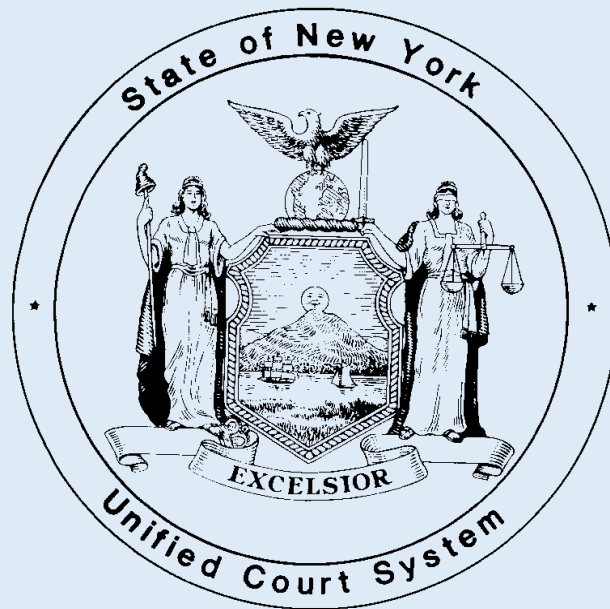


*State of New York*  
*Appellate Division, Supreme Court*  
*Second Judicial Department*

Attorneys for Children

**Joana C. Eder**  
Director

**Sarah A. Tirgary**  
Deputy Director



ADMINISTRATIVE HANDBOOK

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**SUPREME COURT APPELLATE DIVISION  
SECOND JUDICIAL DEPARTMENT  
OFFICE OF ATTORNEYS FOR CHILDREN  
335 ADAMS STREET, SUITE 2400  
BROOKLYN, NEW YORK 11201  
PHONE#: (718) 923-6351  
FAX# (212) 416-0430**

**JOANA C. EDER, ESQ.**  
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Deputy Director

## **INTRODUCTION**

The Office of Attorneys for Children (OAC), Appellate Division, Second Department, has prepared this Administrative Handbook to acquaint you with the operation of its Program.

The OAC 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.

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 analytical skills of each individual attorney are the single most important tools they have to offer their clients, the methods, suggestions, and information contained in this Handbook should also prove to be an invaluable resource.

The Appellate Division, Second Department, Office of Attorneys for Children, and the courts in which you will be serving, are grateful to you for your work on behalf of children and families.

We hope this Handbook provides assistance in your important work.

**STAFF MEMBERS**

<b><u>NAME</u></b>	<b><u>TITLE</u></b>	<b><u>PHONE NUMBER</u></b>
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## **OFFICE POLICY**

### **RESIGNATION**

Please be reminded that should you decide to leave the panel, it is incumbent upon you to notify our office in writing of same. As you are aware, you are obligated to complete all pending assigned matters. If you are unable to complete any of those matters, you must make an application to each judge presiding to be relieved of your representation.

Additionally, you must notify your clients in writing of your request to be relieved (where age appropriate) and the name and contact information of their new attorney. Your failure to do so would be a disservice to your client, litigants, counsel and the Court, and may result in possible disciplinary action.

## **OFFICE POLICY**

### **LEAVE OF ABSENCE**

A panel member whose leave of absence extends beyond one year (12 consecutive months) will not be recertified to the panel the following year. Should these attorneys wish to be reinstated to the panel, they will be required to re-apply. It is at the discretion of the OAC to determine whether this attorney needs to submit a complete or partial application.

This protocol applies regardless of the reason for the leave of absence.

## **OFFICE POLICY**

### **ADA ACCOMODATION**

Please be advised that the protocol for requesting an accommodation for an in-person appearance, including but not limited to appearing for trials, permanency hearings, conferences, in camera of children and intake, is as follows:

1. Requests for an ADA accommodation are to be made in writing, copied to the OAC, directly to the jurist before whom you are to appear. Some jurists may allow an oral application to be made, while others may require it to be in writing. It is up to said jurist to decide and it is up to you to ascertain their preferred method of making such a request. However, the OAC requires all requests to be made in writing and emailed to [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov)
2. The jurist before whom you are to appear has the discretion to request medical documentation to demonstrate the existence of a disability to help said jurist understand the nexus between the disability and the requested accommodation.
3. The OAC likewise has the discretion to request medical documentation.

ADDITIONAL NOTE: You should also be aware that an intake judge may be unwilling to assign you should you be unable or unwilling to appear in person for future appearances.



## **OFFICE POLICY**

### **CONTINUING LEGAL EDUCATION**

#### **MANDATORY REQUIREMENT**

In the event that a panel member is unable to attend a mandatory seminar, the attorney must make-up this session in order to satisfy the training and education requirement by viewing the recorded video of the seminar, complete an affirmation and evaluation form and email it to:

[AD2-AFC\\_CLE@nycourts.gov](mailto:AD2-AFC_CLE@nycourts.gov)

To be eligible for recertification to the panel, the attorney shall be in compliance with all continuing legal education requirements. Failure to do so, your name may be referred to the Appellate Division for appropriate action.

**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 legal advocate. The attorney for the child has the responsibility to represent and advocate for the child's wishes and interests in court proceeding. To that end, counsel for children is to meet with *every child*-client, in person, *regardless of age*. An Attorney for the Child(ren) 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 other 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 as they are to any attorney in a civil proceeding or action.

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]**

## FAMILY COURT ACT

### Attorneys for Children

#### § 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 an attorney for the child. 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 attorneys for children 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. Attorney for the Child

As used in this act, "attorney for the child" 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 attorneys to represent children in 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 services of attorneys for children, 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 attorneys for children 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 attorneys for children 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 attorneys for children 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 attorneys for children 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 attorneys for children 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, attorneys for children 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 attorneys for children under section two hundred forty-five shall be payable by the state of New York within the amounts appropriated therefor.

**§ 249. Appointment of Attorney for the Child**

- (a) In a proceeding under article three, seven, ten, ten-A or ten-C 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 or three hundred eighty-four-b 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 an attorney 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 assigned counsel. In any proceeding under article ten-B of this act, the family court shall appoint an attorney to represent a youth, under the age of twenty-one, who is the subject of the proceeding, if independent legal representation is not available to such youth. In any other proceeding in which the court has jurisdiction, the court may appoint an attorney 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 an attorney for a child pursuant to this section, the court shall, to the extent practicable and appropriate, appoint the same attorney who has previously represented the child. Notwithstanding any other provision of law, in a proceeding under article three of this act 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 same counsel who represented the juvenile offender in the criminal proceedings.

**§ 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 an attorney. This presumption may be rebutted only after an attorney has been appointed and the court determines after a hearing at which the attorney 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.

**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 attorney for the child, 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.

**Assigned counsel and attorney for child rates: expert fee cap**

As part of the Education, Labor and Family Assistance language bill enacted as part of the NYS budget for Fiscal Year 2023-2024, the hourly rate of reimbursement for 18-B attorneys and attorneys for children has been raised to \$158 per hour for work performed both in and out of court. There is a cap of \$10,000 per case, which may be exceeded upon a showing of extraordinary circumstances. These provisions apply to attorneys appointed at the trial and appellate levels in criminal cases, as well as those appointed for children and for adults in Family Court proceedings pursuant to Family Court Act §§249 and 262, respectively, matrimonial proceedings under Judiciary Law §35(8) and Surrogate's Court proceedings under Surrogate's Court Procedure Act §407. See County Law §722-b; Judiciary Law §35(3) [Laws of 2023, chapter 56, Part GG, attached].

In addition to the increase in attorney reimbursement, the new statute also increases the cap on reimbursements for each investigative, expert, interpreter or other service ordered under County Law §722-c from \$1000 to \$3000, a rate that may be exceeded if extraordinary circumstances have been found. Likewise, Judiciary Law §35(4) has been amended to increase the cap on psychiatrists, certified psychologists or physicians appointed to examine individuals alleged to be mentally ill, developmentally disabled or addicted to narcotics in habeas corpus proceedings regarding commitments to State facilities and in proceedings to terminate parental rights brought on the grounds of mental illness or developmental disability. See County Law §722-c; Judiciary Law §35(4) . Effective: May 3, 2023 (retroactive to April 1, 2023).

**COUNTYLAW**

**§ 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 the statutory maximum.

Each claim for compensation shall be supported by the following:

- a) A sworn statement specifying the time expended.
- b) Services rendered.
- c) Expenses incurred.
- d) Reimbursement or compensation applied for or received in the same case from any other source.



**RULES OF THE APPELLATE DIVISION, SECOND DEPARTMENT  
PART 679. ATTORNEYS FOR CHILDREN PLAN**

**§ 679.1. Family Court Attorneys for Children Plan Established**

There is hereby established in the counties of the Second Judicial Department a plan for the operation of the family Court attorneys for children panels designated pursuant to Family Court Act § 243(c).

**§ 679.2. Administration of Attorneys for Children Plan**

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

**§ 679.3. Attorneys for Children Director**

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

**§ 679.4. Advisory Committees**

The following Family Court attorneys for children 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 Administrative Judge of the Family Court of the City of New York, or his or her designee, who shall serve as committee chair, 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 nonattorney.
- (b) In Nassau County, the committee shall be composed of the Supervising Judge of the Family Court, who shall serve as committee chair, 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 nonattorney.
- (c) In Suffolk County, the committee shall be composed of the Supervising Judge of the Family Court, who shall serve as committee chair, 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 nonattorney.
- (d) There shall be a single committee for the counties of Dutchess, Orange, Putnam, Rockland and Westchester, which shall be composed of the Supervising Judge of the Family Court, Ninth Judicial District, who shall serve as committee chair, 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 nonattorneys.
- (e) The members of each advisory committee shall be appointed by the Presiding Justice of 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 attorneys for children's panels.
- (f) The director of the attorneys for children program shall sit as an officio member of each advisory committee.

- (g) The members of the attorneys for children advisory' committees as volunteers are expressly authorized to participate in a State-sponsored volunteer program within the meaning of Public Officers Law § 17.

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

Subject to the supervision of the Appellate Division, the attorneys for children advisory committees shall establish procedures for appointment and reappointment of attorneys to serve on the attorneys for children panels, for periodic evaluation of attorneys who serve on the attorneys for children panels, for training of attorneys on the attorneys for children panels, for investigating complaints made against members of the attorneys for children panels, and for removal of attorneys from the attorneys for children 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 a member in good standing of the Bar of the State of New York, shall have completed introductory continuing legal education training sponsored by the attorneys for children program, 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 subdivision (a) of this section.
- (c) The minimum requirements may be waived if, in the opinion of an advisory committee, the applicant is otherwise qualified by reason of education, training or substantial trial experience.
- (d) Each advisory committee may establish such additional requirements and procedures as it sees fit, subject to approval by the Appellate Division.

#### **§ 679.7. Designation of Panels**

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

#### **§ 679.8. Periodic Evaluation of Attorneys for Children**

The advisory committees shall establish procedures to periodically evaluate the representation provided to juveniles by each member of an attorneys for children 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 attorneys for children program shall establish a training and education program for members of the attorneys for children 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 attorneys for children 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 attorneys for children 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 attorneys for children 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, each attorneys for children 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 thereof.

### **§ 679.13. Annual Reports**

A report of the operation of the attorneys for children panels shall be filed by the Appellate Division with the Chief Administrator of the Courts on August 1st of each year.

### **§ 679.14. Compensation of Attorneys for Children**

- (a) Claims by attorneys for children 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 attorneys for children 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 attorney for the child 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 attorney for the child'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.

**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 Attorneys for Children**

Claims by attorneys for children 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) of this section, this Part shall apply to the following appointments made by any judge or justice of the Unified Court System:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>(1) guardians;</li> <li>(2) guardians <i>ad litem</i>, including guardians <i>ad litem</i> appointed to investigate and report to the court on particular issues, and their counsel and assistants;</li> <li>(3) attorneys for the child who are not paid from public funds, in those judicial departments where their appointments are authorized;</li> <li>(4) court evaluators;</li> <li>(5) attorneys for alleged incapacitated persons;</li> <li>(6) court examiners;</li> <li>(7) supplemental needs trustees;</li> <li>(8) receivers;</li> <li>(9) referees (other than special masters and those otherwise performing judicial functions in a quasi-judicial capacity);</li> </ul> | <ul style="list-style-type: none"> <li>(10) the following persons performing services for guardians or receivers:               <ul style="list-style-type: none"> <li>(i) counsel;</li> <li>(ii) accountants;</li> <li>(iii) auctioneers;</li> <li>(iv) appraisers;</li> <li>(v) property managers; and</li> <li>(vi) real estate brokers; and</li> </ul> </li> <li>(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(f) of this Part shall apply, and that section 36.2(c) of this Part shall not apply to incumbents in these positions until one year after the effective date of this paragraph.</li> </ul> |
|---|--|

(b) Except for sections 36.2(c)(6) and 36.2(c)(7) of this Part, this Part shall not apply to:

- (1) appointments of attorneys for the child 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; or a guardian *ad litem* appointed pursuant to Article 12 of the Civil Practice Law and Rules, who is an uncompensated friend or relative of a party incapable of adequately prosecuting or defending the party's rights;
  - (iii) a nonprofit institution performing property management or personal needs services, or acting as court evaluator, attorney for an alleged incapacitated person, or guardian *ad litem*;

- (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; or
  - (vii) a physician whose appointment as a guardian *ad litem* is necessary where emergency medical or surgical procedures are required; or
- (3) an appointment other than above without compensation, except that the appointee must file a notice of appointment pursuant to section 36.4(b) of this Part.

### § 36.2 APPOINTMENTS

(a) **Appointments by the judge.** All appointments of the persons set forth in section 36.1 of this Part, including those persons set forth in section 36.1(a)(10) of this Part 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 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 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 that has been removed from a list pursuant to section 36.3(e) of this Part.
- (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 a chair or executive director, or their equivalent, of a State or county political party (including any person or persons who, in counties of any size or population, possess or perform any of the titles, powers or duties set forth in Public Officers Law section 73[1][k]), 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; and
  - (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 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 has been awarded more than an aggregate of \$100,000 in compensation by all courts during any calendar year, the person 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 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 on a list reregister every two years in order to remain on the list.
- (e) **Removal from lists.** The Chief Administrator may remove any person 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 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.
- (f) Notwithstanding section 36.3(e), pending a final determination on the issue of removal, the Chief Administrator may temporarily suspend any person from any list upon a showing of good cause that the person's conduct places clients or wards at significant risk of financial or other harm, or presents an immediate threat to the public.

### § 36.4 PROCEDURE AFTER APPOINTMENT

- (a) Upon appointment of a fiduciary pursuant to this Part, the Court shall forward a copy of the appointment order to the designated fiduciary clerk within two (2) business days.
- (b) **Notice of appointment and certification of compliance.**
- (1) Every person 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 section 36.2(c) and (d) of this Part; 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 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.
- (c) **Approval of compensation.**
- (1) Upon the approval of compensation of more than \$500, the court shall file with the fiduciary clerk (i) 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; and (ii) a copy of the proposed order approving compensation.
  - (2) The court shall not sign an order awarding compensation exceeding \$500 until such time as the fiduciary clerk has confirmed that the appointee has properly filed the notice of appointment and certification of compliance. No compensation shall be awarded to an appointee who has not properly filed the notice of appointment and certification of compliance.
  - (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.

- (5) Unless otherwise directed by the court, a fiduciary appointee may utilize supporting attorneys and staff in their firm without additional Court approval. Support attorneys and staff may perform tasks only under the fiduciary appointee's direct supervision; all appearances and reports must be made by the fiduciary appointee; and all compensation earned by support attorneys or personnel shall be charged to the appointee for purposes of compensation limits pursuant to this Part.
- (d) **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.
- (e) **Reporting of compensation received by a referee to sell real property.**
- (1) A referee to sell real property shall make a letter application to the court to authorize payment over \$1,100 for a "good cause" adjournment or if there is a rebid or resale.
  - (2) Upon approval of compensation exceeding \$1,100 to a referee to sell real property, the Court shall file a copy of its compensation order with the appropriate fiduciary clerk, who shall generate the required Unified Court System forms and monitor compliance and filing with the Part 36 processing unit. Payment of such compensation may not be made until the plaintiffs in the matter have received a copy of the court's compensation order.
  - (3) Exception. The procedure set forth in section 36.4(b)(1) 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 \$1,100.
- (f) **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 of this Part shall be public records.
- (b) The Chief Administrator shall arrange for the periodic publication of the names of all persons appointed by each appointing judge, and the compensation approved for each appointee.

## **PART 36 – APPOINTMENTS**

### **PRIVATELY PAID ATTORNEY FOR THE CHILD APPOINTMENT PROCESS**

Attorneys who are eligible for appointment as privately paid attorney for the child should be in compliance with the Rules of the Chief Judge Pursuant to 22 NYCRR Part 36. It is incumbent upon the attorney to familiarize yourselves with the requirements and reporting obligations of 22 NYCRR Part 36. Please note that compliance is strictly monitored by the Office of Court Administration.

You should be particularly mindful that within thirty days of your appointment, you are responsible for receiving and completing the Certificate of Compliance pursuant to 22 NYCRR Part 36.4 (a) (1) which is provided to you by the Fiduciary Clerk of your court. You should also familiarize yourselves with those forms which must be completed upon seeking approval of compensation pursuant to 22 NYCRR Part 36.4 (b) (1).

### **FORMS**

To obtain compensation, an attorney must submit the following:

- a) Appointment Order (UCS 880)
- b) Affirmation of Services Form (UCS 881)
- c) The order approving Law Guardian Compensation (UCS 882) and, if applicable
- d) A copy of any previous order approving compensation in the case

The submitted forms must include affidavits of service to all applicable parties in the case. The Approval of Compensation Form (UCS 875) will also be generated by the Fiduciary Clerk and forwarded to the assigned judge for signature with any request for law guardian compensation.

Please see below instructions.



**INSTRUCTIONS**  
**for**  
**Privately Paid Attorneys for the Child**  
**in the**  
**First, Second and Fourth Departments of the Appellate Division**  
**(Pursuant to Part 36 of the Rules of the Chief Judge)**

Appointments of privately paid Attorneys for the Child pursuant to Part 36 of the Rules of the Chief Judge must use the following procedures and forms :

**UCS 880 (Order Appointing Attorney for the Child) (Court forwards to Attorney for the Child with UCS 872 (Notice of Appointment/Certification of Compliance))**

**Orders**

- amount of retainer, if any
- hourly rate
- percentages paid by parties, subject to reallocation at trial
- billing of parties at least every 60 days
- rights and responsibilities of Attorney for the Child
- permission to Attorney for the Child for self-payment from retainer or subsequent receipts without further order of court

**UCS 881 (Affirmation of Services for Privately Paid Attorney for the Child)**  
(Submitted to court by Attorney for the Child in support of application for approval of compensation at conclusion of service)

**Shows**

- hours (supported by attached time records)
- hourly rate (supported by attached copy of appointment order)
- compensation, disbursements and total award requested

**UCS 882 (Order Approving Attorney for the Child Compensation)**  
(Settled by Attorney for the Child on five days notice; supported by affirmation of services; filed by court with UCS 875 (Statement of Approval of Compensation))

**Orders**

- compensation and disbursements for final award
- percentages and total dollar amounts owed by parties
- credits to parties for amounts paid
- net amounts due to Attorney for the Child or reimbursements due to parties
- payment by parties or reimbursement by Attorney for the Child

## **PART 36 – COMPENSATION LIMITATIONS** - (See 22NYCRR 36.2(d))

Under the rules, appointments may be prohibited or limited based upon the compensation awarded or anticipated as follows:

- (1) A person may receive only one appointment per calendar year for which the compensation is anticipated to be more than \$15,000 (*see* Part 36.2 (d)(1)).
- (2) A person who has been awarded more than \$100,000 in compensation during any calendar year, is ineligible for compensated appointments in the following calendar year (*see* Part 36.2 (d) (2)).

These limitations in appointments based upon compensation are not caps per se. They were made a part of the Part 36 rules to act as a limiting factor in the appointment process to promote confidence in judicial appointments and to combat any perception of favoritism in the appointment process or any perception by the public that a favored few received all the lucratively compensated appointments.

This rule is balanced with a sole exception of allowing a person who would not normally be eligible for appointment because they have exceeded the compensation caps set forth in Part 36 to nevertheless be appointed in a matter where the appointment is necessary to maintain the continuity of representation of or service to the same person or entity in a further or subsequent related proceeding (*see* Part 36.2 (d) (4)).

During the appointment process, a notification of appointment and certification of compliance is required to be filed by the appointee (*see* Part 36.4 (b) (1)). In the certification of compliance, the appointee must certify that they are in compliance with the limitations set forth in Part 36.2 (c) and (d). If the appointee is unable to make the appropriate certifications, the appointee must notify the appointing judge (*see* Part 36.4 (b) (4)).

In order for the appointee to be able to certify that they are in compliance with Part 36.2 (d) they must either not run afoul of the limitations set forth in Part 36.2 (d) (1) or (2) or meet the exception set forth in Part 36.2 (d) (4).

While the appointee may be able to certify that they have not run afoul of the compensation “caps” set forth in Part 36, it is the judge who must make the determination as to whether the exception applies to the proposed appointment. **This determination should be set forth in writing in an order that details the exception and the reasons therefor.** This order will then be uploaded to the system along with a notation that the appointment has been made as an exception to the Part 36 rules. This procedure will ensure compliance with Part 36, provide ready transparency in the appointment process and promote accurate and timesaving recordkeeping in FCMS.

## **SUPPORT SERVICES AND OTHER RESOURCES**

The Second Department is unique in having as a component of the Office of Attorneys for Children, 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 attorneys for children seeking resources and support services for their clients. It 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 provides attorneys with a comprehensive listing of psychiatrists, psychologists and social workers from which the court may appoint a mental health professional pursuant to 22 NYCRR § 680.5.

The Mental Health Professionals Resource directory is available at:

<https://www.nycourts.gov/courts/ad2/mentalhealthprofhome.shtml>

A Family Court Appellate Handbook has been created to advise Attorneys for children 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.

For more information on the above services, please refer to the Appellate Panel links or contact the Attorneys for Children Program Office.

**ADVISORY COMMITTEE MEMBERS**

**SECOND, ELEVENTH & THIRTEENTH JUDICIAL DISTRICTS:**

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Barbara DiFiore, Esq.

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Benita Cooper

Marks Kelly Myers, Esq.

Alan Rosenblatt, Esq.

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Elena Karabatos, Esq.

Theo Liebmann, Esq.

Christopher Pizzolo, Esq.

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TENTH JUDICIAL DISTRICT:  
(Suffolk County)**

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Hon. Cheryl Joseph

Hon. George Harkin

Lynne Kramer, Esq.

Daryl M. Rivera, LMSW

Daniel A. Russo, Esq.

Kevin J. Werner, Esq.

Michael Williams, Chief Clerk

**PRIMARY DAY ASSIGNMENTS**

(Kings, Queens, Richmond, Nassau and Suffolk Counties)

You will be selected either by the Family Court in your particular county or by the Attorneys for Children 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. When you schedule your Primary Day you must properly manage your calendar so as to be available during the ensuing three days that either a 1028 or probable cause hearing would have to be held.

**Kings and Queens Counties:**

Attorneys are required to sign up and serve 12 Primary Intake days per year, 1 primary per month as a requirement to continue on the panel. Attorneys are to be available for assignment on pre-arranged primary intake days. Please email Gregory Chickel at [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov) to schedule your primary intake days.

**Richmond County:**

Attorneys are required to sign up and serve 24 primaries per year, preferably 2 primaries per month, one at the Family court and one at Hyatt St. Facility as a requirement to continue on the panel. Attorneys are to be available for assignment on pre-arranged primary intake days. Please email Gregory Chickel at [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov) to schedule your primary intake days.

**Nassau County:**

Please contact Maria Rizzi, Senior Administrative Secretary to the Nassau County Family Court, at [mrizzi@nycourts.gov](mailto:mrizzi@nycourts.gov) to schedule your Primary days.

**Suffolk County:**

Attorneys are required to sign up and serve 12 Primary Intake days per year, 1 primary per month as a requirement to continue on the panel. Attorneys are to be available for assignment on pre-arranged primary intake days. Please email the following to schedule your primary intake days:

For Central Islip Jeanne Montemurro [JMontemu@nycourts.gov](mailto:JMontemu@nycourts.gov)

For Riverhead, please contact Barbara Hansen [bhansen@nycourts.gov](mailto:bhansen@nycourts.gov)



## COMPENSATION AND REIMBURSEMENT GUIDELINES

The Attorneys for Children Program is responsible for compensating attorneys for children and for paying reasonable disbursements incurred in the representation of their 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 Attorneys for Children Panel or of the Appellate Division's Attorneys for Children Appeals Panel to be compensated as an attorney for the child.
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 Attorneys for Children Internet Voucher System profile of any change of contact information.

### B. Compensation Rates

#### 1. Rate of Compensation:

Attorneys for Children representation in both trial and appellate court proceedings are compensated at the rate of **one hundred fifty-eight dollars** per hour for both in-court and out-of-court time. Please note (For Kings, Queens and Richmond Counties), the rate increase took effect on February 2, 2022, and (For Nassau, Suffolk, Westchester, Dutchess, Putnam, Orange and Rockland Counties), the rate increase took effect on April 1, 2023. Services provided prior to those dates should be charged at **seventy-five** per hour for in-court and out-of-court.

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

Claims for compensation in excess of the statutory maximum of **\$10,000** effective April 1, 2023, and **\$4,400** prior to that date require an affirmation of "extraordinary circumstances" to be submitted as part of your online voucher. You will be prompted by the Attorneys for Children 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

The State of New York Comptroller's Office (OSC) requires that all vendors and individuals intending to do business with any New York State agency must obtain a Vendor ID and register for e-Payment.

#### 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 the judge is present.

Time spent waiting at court facilities as described above in (a) or (b) is compensable.

c) All other time expended in representing a child 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

Attorneys for Children 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 Attorneys for Children Program will pay reasonable expenses of representation, i.e., out-of-pocket expenses incurred by an attorney for the child 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 Attorneys for Children 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;
- receipts must be submitted

### POSTAGE:

- receipts for all postage must be submitted.
- Federal Express, Certified Mail, etc. may be reimbursed; receipts must be submitted

### PARKING:

- allowed only in 9th Judicial District;
- receipts must be submitted

### WITNESS FEES & PROCESS

#### SERVICE:

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

TRAVEL EXPENSES

- Mileage incurred to and from a client is reimbursable. You must indicate the number of miles traveled.
- For any vouchers received on or after July 1, 2023, time spent traveling either to a client's home or to a facility, e.g. detention, group home, school or a meeting place near a client's home is compensable in the event the client is unable to travel to your office. An explanation for the necessity to travel to see your client must be provided in your voucher's activity summary. This protocol as with all protocols of the AFC Program is subject to modification.
- Tolls used during travel to and from a client is reimbursable: receipt is required;
- Public transportation costs incurred to or from a visit to a client, e.g., to the home or a residential facility is reimbursable; receipts required;
- Time spent traveling to and from court is **not** compensable. There is no reimbursement for mileage or toll costs incurred to and from court;
- Bus/Subway Fares: reimbursable for clients when released from detention or after intake;

TRANSCRIPTS:

Transcripts are not paid on the Attorneys for Children voucher; Court Reporters can bill on a "Claim Voucher," together with the New York State "Minute Order Form and Receipts".

**D. Voucher Preparation**

**1. Submission of Voucher Required**

- a) To receive compensation for legal services to a client, you must have access to the Attorneys for Children Internet Voucher System (AFCIV). In order to attain access, you must obtain a username and register your on-line account. If you do not have a username, please call the Attorneys for Children Program Office at 718-923-6313.
- b) An original Attorneys for Children 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 attorney for the child.

**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 AFCIV 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 Attorneys for Children Program Office.
- c) At the conclusion of a permanency planning hearing, you should submit your voucher. These matters are viewed by the AFCIV 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 Attorneys for Children 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 AFCIV 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, 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 **\$4,000.00** prior to February 2, 2022, and **\$10,000.00** from February 2, 2022, forward, 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 those amount.

**PLEASE NOTE:** Instructions for the preparation and submission of your online vouchers can be found in the Attorneys for Children 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 refer to 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. The directory is available online at:

<https://www.nycourts.gov/courts/ad2/mentalhealthprofhome.shtml>

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 attorney for the child and include 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. Please see sample Orders.
- b) After the order is signed, **a copy should be forwarded to the Expert.** In Family Court cases, the order should be structured to apportion the expense of the experts among the parties where they have the means, or between the County, Pursuant to Section 722-c of the County Law, for the adult litigants in the case of indigents, and Pursuant to Section 35 of the Judiciary Law for the evaluation of the child, when represented by a panel AFC, or by the office of the Institutional Provider.
- c) Experts are to bill the State (for children) (Judiciary Law § 35) by completing a voucher online through SharePoint (Please see instructions on the Mental Health Professionals Panel website).
- d) Experts are to bill the County (for adults) (County Law § 722-c) by contacting the respective County for their vouchers.
- e) At the conclusion of the expert's role in the case, the expert 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. (See Sample Order).
- b) If the court determines that both parties are indigent, experts are to bill the State (for both adults and children) by completing a voucher online through SharePoint.
- c) If the court determines that both parties have the financial means to pay for the cost of the expert services, the parties will pay for this expense and such services will not be a State charge. 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.

4. 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/Physicians	\$400
Certified Psychologist	\$300
Certified Social Worker	\$100
License Investigator	\$90

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 (\$3,000).

The Attorneys for Children 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 Attorneys for Children Office.

## PROCEDURES FOR JUDICIARY LAW § 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) Compensation Rate**

Counsel appointed pursuant to Section 35 of the Judiciary Law are compensated at the rate of **one hundred fifty-eight dollars** per hour for both in-court and out-of-court time. Please note (For Kings, Queens and Richmond Counties), the rate increase took effect on February 2, 2022, and (For Nassau, Suffolk, Westchester, Dutchess, Putnam, Orange and Rockland Counties), the rate increase took effect on April 1, 2023. Services provided prior to those dates should be charged at **seventy-five dollars** per hour for in-court and out-of-court. Vouchers for eligible services must be approved by the Supreme Court Justice and should then be sent to the Office of Attorneys for Children for payment processing by the appropriate District Administrative Judge's office.

### **Voucher Procedure for Reimbursement**

Vouchers pursuant to Judiciary Law Section 35(8) are to be completed online through SharePoint (Please below instructions). Your completed voucher should be emailed to the jurist who presided over the matter. Each voucher should be sent separately in PDF format with a copy of the court order, worksheet and an affidavit. In the subject line, you must enter the name of the case, the associated Document ID number and Index number.



## JUDICIARY LAW § 35 (8)

### INSTRUCTIONS

To access the online voucher system, you must first create an account with **Microsoft Live**. Please see the below link and follow the prompt:

<https://signup.live.com>

**Note:**

Once the account is created, you will receive an e-mail confirmation from Microsoft Account Team to verify creation of your account. You **must** email Gregory Chickel at [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov) and notify him of which e-mail address was used to create the Microsoft Live account.

Once Mr. Chickel receives confirmation from you, he will then email you a separate link to access the online voucher system.

### **INSTRUCTIONS FOR ASSIGNED COUNSEL 35(8):**

Because of the rate increase, which took effect on **February 2, 2022**, (For Kings, Queens and Richmond Counties), the attorney must complete 2 separate Worksheets.

- 1) One worksheet with activities prior and up to February 1, 2022
- 2) Another worksheet with activities from February 2, 2022, forward.

Because of the rate increase, which took effect on **April 1, 2023**, (For Nassau, Suffolk, Westchester, Dutchess, Putnam, Orange and Rockland Counties), the attorney must complete 2 separate Worksheets.

- 1) One worksheet with activities prior and up to March 31, 2023
- 2) Another worksheet with activities from April 1, 2023, forward.

## **TRANSCRIPTS**

### **OBTAINING TRIAL TRANSCRIPTS**

To obtain transcripts for use in representing a client in a trial court, attorney for child must complete a “**Minute Order Form and Receipts**”. Please note that when representing a “Child”, it’s a State charge. Therefore, the AFC incurs no out-of-pocket expense because transcript costs are paid by the Office of Attorneys for Children. Below, is a step-by-step instruction:

**Section 1.** The attorney completes the top portion of the Minute Order Form and presents the form to Family Court for the judge's authorization.

**Section 2.** Following the judge's action, Family Court retains a copy of the form and returns the remaining copies to the attorney for transmittal to the stenographer/transcriber.

- a) The stenographer/transcriber prepares **two certified** copies of the transcript.
- b) One copy is to be filed with the Family Court Clerk, and the second copy is delivered to the attorney.

**Section 3.** When the transcript is delivered, AFC endorses the appropriate portion of the form acknowledging the total number of pages of transcript received.

**Section 4.** Clerk or Designee acknowledge receipt of minutes received.

The stenographer/transcriber completes a “Claim for Payment” form together with the endorsed “Minute Order Form and Receipts” and e-mails them to the Office of Attorneys for Children for review and payment.

**Note:**

For adult’s representation (18b), it’s a County charge. Please contact the appropriate County for their voucher procedure and payment.

Please see sample Transcript forms.

## **TRANSCRIPTS**

### **OBTAINING MECHANICALLY RECORDED TRANSCRIPTS**

To request a transcript of a mechanically recorded proceeding, assigned counsel must complete the following:

- a) Transcript Request Form
- b) 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.

**Note:**

For adult's representation (18b), it's a County charge. Please contact the appropriate County for their voucher procedure and payment.

Please refer to the forms on the Transcript link page.

## **RECERTIFICATION PROCEDURE**

The Panel for each county is recertified on a yearly basis. The attorney for the child designation remains in effect for only one year [22 NYCRR § 679.(7)]. As part of an annual evaluative procedure, prior to recertification, the Attorney for the Child Advisory Committee for each Judicial District shall make inquiries as to the performance of each panel member 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 panel member 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.

## **ANNUAL EVALUATIONS**

Please note that all panel attorneys are certified for one calendar year beginning January 1 and ending December 31. During this time, evaluation forms are distributed to all jurists, including all Judges, Court Attorney Referees, and Support Magistrates, for feedback on each attorney's performance in the courtroom.

Once received by the Office of Attorneys for Children, such evaluations are reviewed, and if appropriate, used as a basis to refer attorneys for further training, discipline or removal from the panel.

Such evaluations are confidential.

## LANGUAGE LINE SERVICES

In an effort to address the difficulties many of you have been facing regarding access to court interpreters, this office has opened an account with Language Line Services, Inc., a New York State Vendor under contract with the Office of Court Administration. Language Line provides telephonic interpretation services which are now available to the Attorneys for Children Panel, the cost of which will be paid by the State of New York.

Prior to using the services of a Language Line Interpreter, panel members must first obtain authorization from the court. **Panel members must provide this office with a copy of the signed order** by emailing it to the attention of Gregory Chickel at [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov). Please refer to our website for a copy of sample Order and instructions. If you have any questions, please do not hesitate to contact our office.

**Note:**

The universal client ID number to access Language Line may only be used as an AFC, not an 18-B. Please note that if you misuse the AFC universal client ID, you will be contacted by our office and Language Line Services for reimbursement of those charges.

### **ADULT REPRESENTATION (18-B)**

Please note if you represent an adult (18-b) and wish to utilize Language Line Services, you must first obtain authorization from the court via a 722-c order. This will enable you to contact Language Line Services at [www.LanguageLine.com](http://www.LanguageLine.com) in order to sign up and open an account. As 18-B, you are responsible for paying Language Line Services directly. You may then submit your bill to the County as an expense on your voucher and you must attach a copy of the 722-c order to your voucher.

**22 NYCRR PART 680**  
**MENTAL HEALTH PROFESSIONALS PANEL**

**§ 680.1 Access to Mental Health Professionals**

In custody and visitation, delinquency, persons in need of supervision, child abuse and neglect, termination of parental rights, family offense, and adoption cases, an evaluation of the parties by a mental health professional is often necessary to assist the court in reaching an appropriate decision. To assure that the court and the parties have access to qualified mental health professionals, a panel of social workers, psychologists and psychiatrists shall be established in the First and Second Judicial Departments in accordance with this part and part 623 of this Title.

**§ 680.2 Mental Health Professionals Certification Committee**

- (a) A mental health professionals certification committee shall be established for the First and Second Judicial Departments.
- (b) The committee shall be composed of no fewer than two justices of the Supreme Court, two judges of the Family Court, two lawyers, two social workers, two psychologists, and two psychiatrists. Half of the members in each class shall be appointed by the Presiding Justices of the First and Second Departments of the Appellate Division, respectively, for three-year terms. Committee members shall be eligible for reappointment for additional terms. The Law Guardian Directors for the Appellate Division in the First and Second Judicial Departments, respectively, or their designees, shall be ex-officio members.
- (c) The members of the committee shall serve as volunteers, authorized to participate in a state-sponsored volunteer program within the meaning of the Public Officers Law § 17.

**§ 680.3 Duties of Mental Health Professionals Certification Committee**

Subject to the supervision of the Presiding Justices of the Appellate Division of the First and Second Judicial Departments, the mental health professionals certification committee shall establish procedures for (a) the appointment of applicants for membership on the panel of mental health professionals, (b) periodic evaluation of panel members, (c) training of panel members, (d) investigating complaints made against panel members, and (e) removal of mental health professionals from the panel.

**§ 680.4 Establishment of Mental Health Professionals Panel**

(a) Eligibility Requirements

A member of the mental health professionals panel shall:

- (1) be a social worker, psychologist, or psychiatrist licensed by the State of New York;
- (2) complete six hours of introductory training approved by the Presiding Justices of the Appellate Division of the First and Second Judicial Departments;
- (3) demonstrate that the applicant has forensic experience, including having testified as an expert and/or having submitted a clinical report in connection with one or more of the following types of court

proceedings: custody and visitation, delinquency, persons in need of supervision, child abuse and neglect, termination of parental rights, family offense, and adoption, or, within the discretion of the mental health professionals certification committee, demonstrate equivalent expertise by engaging in specialized training and in a monitored writing exercise;

- (4) maintain professional malpractice insurance; and
- (5) meet such additional requirements as shall be established by the mental health professionals certification committee with the approval of the Presiding Justices of the Appellate Divisions of the First and Second Judicial Departments.

(b) Application

Licensed social workers, psychologists, and psychiatrists may apply for membership on the mental health professionals panel for the First and Second Judicial Departments by completing a questionnaire in the form prescribed by the mental health professionals certification committee.

(c) Appointments to Panel

- (1) The mental health professionals committee shall review applications and identify those mental health professionals who meet the eligibility requirements.
- (2) The Presiding Justices of the Appellate Division in the First and Second Judicial Departments shall, by joint order, appoint the members of the mental health professionals panel from among those social workers, psychologists and psychiatrists recommended by the committee.
- (3) Appointments to the panel shall be for a term of three years. Panel members may be reappointed to successive terms. Any panel member may be removed prior to the expiration of his or her term by the joint order of the Presiding Justices of the Appellate Divisions of the First and Second Judicial Departments upon the recommendation of the committee

### **§ 680.5 Appointment of Mental Health Professionals From Panel**

(a) Appointment

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, 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. Such appointments shall be from the mental health professionals panel promulgated pursuant to these rules. A court, upon a finding of good cause, may appoint a mental health professional who is not a member of the mental health professionals panel. The court's finding shall be set forth in the order of appointment. This section shall not apply to providers of mental health services pursuant to a governmental contract.

(b) Order of Appointment

The court appointing a mental health professional shall issue a written order setting forth the terms and conditions of the appointment including the method and rate of compensation and by whom such compensation is to be paid. A copy of the order shall be provided to the mental health professional and to every party to the case, including the attorney, if any, for each child.

**§ 680.6 Compensation of Mental Health Professionals**

- (a) The compensation for mental health professionals appointed pursuant to Judiciary Law § 35 or County Law § 722-c shall be set in accordance with guidelines promulgated by the Chief Administrator of the Courts. Applications for payment for services rendered pursuant to those sections shall be submitted for approval to the court that appointed the panel member on forms authorized by the Chief Administrator of the Courts or by the appropriate local fiscal authority.
- (b) The compensation of mental health professionals appointed in cases in which their fees shall be borne in whole or in part by the parties shall be at rates fixed by the court in accordance with the charge for such services prevailing in the community and the financial circumstances of the parties. Such compensation shall not exceed a sum certain to be set forth in the order of appointment, which sum shall be based on the selected rate and the estimated number of hours required to perform the necessary services, except that if, in the judgment of the mental health professional, the number of hours required to perform the necessary services is likely to exceed the number set forth in the order of appointment, he or she may make application to the court to amend that order by increasing the number of hours accordingly. The application shall be made by letter, a copy of which shall be forwarded to the party or parties responsible for the payment of the fee.

**§ 680.7 Training and Education**

The mental health professionals certification committee shall establish a training and education program for members of the mental health professionals panel. The program may be established in cooperation with relevant professional organizations. The committee may make attendance at training sessions a requirement for continued membership on the panel of mental health professionals.

**§ 680.8 Periodic Evaluation of Panel Members**

The mental health professionals certification committee shall establish procedures by which it shall periodically evaluate the work performed by each member of the panel of mental health professionals. In conducting its evaluation the committee shall seek information from judges and other appropriate and knowledgeable persons. The committee shall not recommend for reappointment to the panel any member whose performance has been determined to be unsatisfactory.

**§ 680.9 Removal**

The Presiding Justices of the Appellate Division of the First and Second Judicial Departments may, by joint order, remove members of the mental health professionals panel. The mental health professionals certification committee may, at any time, recommend to the Presiding Justices that a mental health professional be removed from the panel.



**§ 680.10 Annual Report of the Mental Health Professionals Certification Committee**

On June 1st of each year the mental health professionals certification committee shall submit to the Presiding Justices of the Appellate Division in the First and Second Judicial Departments an annual report containing an evaluation of the operation of the mental health professionals panel and the training program and any recommendations concerning measures that should be adopted to improve the performance of the panel and the training program. A copy of that report shall be forwarded to the Chief Administrator of the Courts.

**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**

**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.

**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.

**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.

### **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).

### **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.

### **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.

### **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**

**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.

**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.

**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.

**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.

**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.

**Noncompliance**

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

**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:

- (a) 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;
- (b) 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.



## **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 Attorneys for Children 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 attorneys for children training and education.

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

In order to receive CLE credit for viewing a videotape of an attorneys for children 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.

## 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, section four hundred seven of the surrogate's court procedure act or article ten of the mental hygiene law, 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:

- (a) Representation by a public defender appointed pursuant to county law article eighteen-A.
- (b) 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](#).
- (c)
  - 1) Representation by counsel furnished pursuant to either or both of the following: a plan of a bar association in each county or the city in which a county is wholly contained whereby: (i) the services of private counsel are rotated and coordinated by an administrator, and such administrator may be compensated for such service; or (ii) such representation is provided by an office of conflict defender.
  - 2) Any plan of a bar association must receive the approval of the office of indigent legal services before the plan is placed in operation. In the county of Hamilton, representation pursuant to a plan of a bar association in accordance with subparagraph (i) of paragraph (a) of this subdivision may be by counsel furnished by the Fulton county bar association pursuant to a plan of the Fulton county bar association, following approval of the office of indigent legal services. When considering approval of an office of conflict defender pursuant to this section, the office of indigent legal services shall employ the guidelines it has heretofore established pursuant to [paragraph \(d\) of subdivision three of section eight hundred thirty-two of the executive law](#).
  - 3) Any county operating an office of conflict defender, as described in subparagraph (ii) of paragraph (a) of this subdivision, as of March thirty-first, two thousand ten may continue to utilize the services provided by such office provided that the county submits a plan to the state administrator within one hundred eighty days after the promulgation of criteria for the provision of conflict defender services by the office of indigent legal services. The authority to operate such an office pursuant to this paragraph shall expire when the state administrator (or, on or after April first, two thousand nineteen, the office of indigent legal services) approves or disapproves such plan. Upon approval, the county is authorized to operate such office in accordance with paragraphs (a) and (b) of this subdivision.
  - 4) For purposes of this subdivision, any plan of a bar association approved hereunder pursuant to this subdivision, as provided prior to April first, two thousand nineteen, shall remain in effect until it is superseded by a plan approved by the office of indigent legal services or disapproved by such office.
- (d) 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](#), or in assigning counsel to a defendant when a case has been calendared for consideration of resentencing pursuant to [subdivision four of section six hundred one-d of the correction law](#) or when a court is otherwise called upon to consider whether a proper term of post-release supervision was imposed as part of a determinate sentence, 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. When a case has been calendared for consideration of resentencing pursuant to [subdivision four of section six hundred one-d of the correction law](#) or when a court is otherwise called upon to consider whether a proper term of post-release supervision was imposed as part of a determinate sentence, the attorney appointed should be the attorney who appeared for the defendant in connection with the judgment or sentence or, if the defendant is currently represented concerning his or her conviction or sentence or with respect to an appeal from his or her conviction or sentence, such present counsel.

- (e) 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. Assignment of counsel upon an appeal in a criminal action pursuant to this subdivision, or pursuant to [paragraph b of subdivision one of section thirty-five of the judiciary law](#), includes authorization for representation by appellate counsel, or an attorney selected at the request of appellate counsel by the administrator of the plan in operation in the county (or city in which a county is wholly contained) where the conviction was entered, with respect to the preparation and 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; compensation and reimbursement for such representation and expenses shall be governed by [sections seven hundred twenty-two-b](#) and [seven hundred twenty-two-c](#) of this article.

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

- (a) 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 for representation of a person in all cases governed by this article, including all representation in an appellate court, compensation at a rate of one hundred fifty-eight dollars per hour for time expended in court before a magistrate, judge or justice and one hundred fifty-eight dollars per hour for time reasonably expended out of court, and shall receive reimbursement for expenses reasonably incurred.
- (b) Except as provided in subdivision three of this section, compensation for time expended in providing representation pursuant to subdivision one of this section shall not exceed ten thousand dollars.
- (c) 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.
- (d) 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 three 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. Provided, however, that any such additional expenses incurred for the provision of counsel and services as a result of the implementation of a plan established pursuant to [subdivision four of section eight hundred thirty-two of the executive law](#), including any interim steps taken to implement such plan, shall be reimbursed by the state to the county or city providing such services. Such plans shall be submitted by the office of indigent legal services to the director of the division of budget for review and approval. However, the director's approval shall be limited solely to the plan's projected fiscal impact of the required appropriation for the implementation of such plan, and his or her approval shall not be unreasonably withheld. The state shall appropriate funds sufficient to provide for the reimbursement required by this section.

**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 or she has the right to be represented by counsel of his or her own choosing, of the right to have an adjournment to confer with counsel, and of the right to have counsel assigned by the court in any case where he or she is financially unable to obtain the same:
- (i) the respondent in any proceeding under article ten or ten-A 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 or person legally responsible, foster parent, or other person having physical or legal custody of the child in any proceeding under article ten or ten-A of this act or [section three hundred fifty-eight-a, three hundred eighty-four or three hundred eighty-four-b 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.
  - (ix) in a proceeding under article ten-C of this act:
    - (1) a parent or caretaker as such terms are defined in [section one thousand ninety-two](#) of this act;
    - (2) an interested adult as such term is defined in [section one thousand ninety-two](#) of this act provided that:
      - (A) the child alleged to be destitute in the proceeding held pursuant to article ten-C of this act was removed from the care of such interested adult;
      - (B) the child alleged to be destitute in the proceeding held pursuant to article ten-C of this act resides with the interested adult; or
      - (C) the child alleged to be destitute in the proceeding held pursuant to article ten-C of this act resided with such interested adult immediately prior to the filing of the petition under

article ten-C of this act;

- (3) any interested adult as such term is defined in [section one thousand ninety-two](#) of this act or any person made a party to the article ten-C proceeding pursuant to [subdivision \(c\) of section one thousand ninety-four](#) of this act for whom the court orders counsel appointed pursuant to [subdivision \(d\) of section one thousand ninety-four](#) of this act.
- (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 fees required by [section eight thousand twenty-two of the civil practice law and rules](#) shall not be required where the attorney for the appellant or attorney for the movant, as applicable, certifies that such appellant or movant has been assigned counsel or an attorney for a child 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 legal services program 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. Where the attorney for the appellant or the attorney for the movant certifies in accordance with procedures established by the appropriate appellate division that the appellant or movant has been represented in family court by assigned counsel or an attorney for a child, 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 legal services program or some other nonprofit organization, which has as its primary purpose the furnishing of legal services to indigent persons, or by private counsel working on behalf or under the auspices of such society or organization, and that the appellant, who has indicated an intention to appeal, or movant, continues to be eligible for assignment of counsel and, in the case of counsel assigned to represent an adult party, continues to be indigent, the appellant or movant shall be presumed eligible for poor person relief pursuant to [section eleven hundred one of the civil practice law and rules](#) and for assignment of counsel on appeal without further motion. The appointment of counsel and granting of poor person relief by the appellate division shall continue for the purpose of filing a notice of appeal or motion for leave to appeal to the court of appeals.

# 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.

[Eff. until Sept. 1, 2025, 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, 2025. 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. Where an attorney certifies, pursuant to [section eleven hundred eighteen of the family court act](#), and in accordance with procedures of the appropriate appellate division, that a party or child who is the subject of an appeal has been represented in the family court by assigned counsel or 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, and, in the case of a counsel assigned to an adult party, that the party continues to be indigent, the party or child shall be presumed eligible for poor person relief pursuant to this section.

(f) [Expires Sept. 1, 2025, pursuant to [L.1999, c. 412, pt. D, § 4.](#)] Fees for incarcerated individuals.

1. Notwithstanding any other provision of law to the contrary, a federal, state or local incarcerated individual under sentence for conviction of a crime may seek to commence his or her action or proceeding by paying a reduced filing fee as provided in paragraph two of this subdivision. Such incarcerated individual shall file the form affidavit referred to in subdivision (d) of this section along with the summons and complaint or summons with notice or third-party summons and complaint or petition or notice of petition or order to show cause. As part of such application, the incarcerated individual shall indicate the name and mailing address of the facility at which he or she is confined along with the name and mailing address of any other federal, state or local facility at which he or she was confined during the preceding six month period. The case will be given an index number if applicable, 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. Upon receipt of the application, the court shall obtain from the appropriate official of the facility at which the incarcerated individual is confined a certified copy of the incarcerated individual's trust fund account statement (or institutional equivalent) for the six month period preceding filing of the incarcerated individual's application. If the incarcerated individual has been confined for less than six months at such facility, the court shall obtain additional information as follows:

- (i) in the case of a state incarcerated individual who has been transferred from another state correctional facility, the court shall obtain a trust fund account statement for the six month period from the central office of the department of corrections and community supervision in Albany; or
  - (ii) in the case of a state incarcerated individual who is newly transferred from a federal or local correctional facility, the court shall obtain any trust fund account statement currently available from such facility. The court may, in its discretion, seek further information from the prior or current facility.
2. If the court determines that the incarcerated individual has insufficient means to pay the full filing fee, the court may permit the incarcerated individual to pay a reduced filing fee, the minimum of which shall not be less than fifteen dollars and the maximum of which shall not be more than fifty dollars. The court shall require an initial payment of such portion of the reduced filing fee as the incarcerated individual can reasonably afford or shall authorize no initial payment of the fee if exceptional circumstances render the



incarcerated individual unable to pay any fee; provided however, that the difference between the amount of the reduced filing fee and the amount paid by the incarcerated individual in the initial partial payment shall be assessed against the incarcerated individual as an outstanding obligation to be collected either by the superintendent or the municipal official of the facility at which the incarcerated individual is confined, as the case may be, in the same manner that mandatory surcharges are collected as provided for in subdivision five of section 60.35 of the penal law. The court shall notify the superintendent or the municipal official of the facility where the incarcerated individual is housed of the amount of the reduced filing fee that was not directed to be paid by the incarcerated individual. Thereafter, the superintendent or the municipal official shall forward to the court any fee obligations that have been collected, provided however, that:

- (i) in no event shall the filing fee collected exceed the amount of fees required for the commencement of an action or proceeding; and
  - (ii) in no event shall an incarcerated individual be prohibited from proceeding for the reason that the incarcerated individual has no assets and no means by which to pay the initial partial filing fee.
2. The institution at which an incarcerated individual is confined, or the central office for the department of corrections and community supervision, whichever is applicable, shall promptly provide the trust fund account statement to the incarcerated individual as required by this subdivision.
  3. Whenever any federal, state or local incarcerated individual obtains a judgment in connection with any action or proceeding which exceeds the amount of the filing fee, paid in accordance with the provisions of this subdivision for commencing such action or proceeding, the court shall award to the prevailing incarcerated individual, as a taxable disbursement, the actual amount of any fee paid to commence the action or proceeding.
  4. The provisions of this subdivision shall not apply to a proceeding commenced pursuant to article seventy-eight of this chapter which alleges a failure to correctly award or certify jail time credit due an incarcerated individual, in violation of section six hundred-a of the correction law and section 70.30 of the penal law.

## **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).

**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.

## **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 Attorneys for Children 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.

**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 Attorneys for Children 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.

You must be a member of the Assigned Counsel Family Court Panel to be compensated. Please contact Maria Asaro at [MAasaro@acp.nyc.gov](mailto:MAasaro@acp.nyc.gov)

All voucher/payment questions should be directed to **The Department of Finance for the Assigned Counsel Plan Payment Unit** located at 59 Maiden Lane, 32<sup>nd</sup> Floor, New York, New York 10038.

**2<sup>nd</sup> Department ACP Payment Supervisor (Brooklyn, Queens, Staten Island)** – Melba Brice, [Bricem@finance.nyc.gov](mailto:Bricem@finance.nyc.gov)

For urgent and escalation matter, please contact:

- **Assistant Director of ACP Payments** – Tamatha Hines, [hinest@finance.nyc.gov](mailto:hinest@finance.nyc.gov)

## Procedures for Submission of Vouchers

Attorneys for Children vouchers, and Attorneys for Children Appeals vouchers pursuant to Section 35 of the Judiciary Law for services rendered in connection with *Family Court* matters must be completed online, email to the Judge that presided over the matter for approval and send to: [AD2-AFCVouchers@nycourts.gov](mailto:AD2-AFCVouchers@nycourts.gov)

18-B Appeals (Adult) vouchers should be sent to: [AD2-Appeals18Bvouchers@nycourts.gov](mailto:AD2-Appeals18Bvouchers@nycourts.gov)

Judiciary Law § 35 (8) vouchers must be approved by the Supreme Court Justice and should then be sent to: [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov)

Expert vouchers pursuant to Section 35 of the Judiciary Law for services rendered in Family Court matters must be completed online through SharePoint and email to the Judge that presided over the matter for approval and send to: [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov)

In Supreme Court cases, experts are to bill the State on a JC-2020 voucher online through SharePoint and email to the Judge that presided over the matter for approval and send to: [gchickel@nycourts.gov](mailto:gchickel@nycourts.gov)

Please familiarize yourself with the Compensation and Reimbursement section pertaining to experts.