



## **RULES OF THE LAWYER REFERRAL AND INFORMATION SERVICE**

(Adopted 3/4/2009)

### **RULE 1 - PURPOSES**

The purposes of the Lawyer Referral and Information Service are:

- (a) To establish a public service of The Contra Costa County Bar Association;
- (b) To establish procedures whereby every member of the public may obtain legal advice and representation and mediation services within her/his means;
- (c) To make available to the public generally the services of an attorney who has the required experience in a particular field of law or mediation practice; and
- (d) To promote high standards of practice and encourage the highest quality of legal and mediation services.

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

A. The Lawyer Referral and Information Service, hereinafter referred to as the "LRIS," shall be operated under the Contra Costa County Bar Association's Rules of the Lawyer Referral and Information Service, hereinafter referred to as "Rules," approved by and as a public service of The Contra Costa County Bar Association, hereinafter referred to as the "CCCBA." The LRIS shall be administered by a Lawyer Referral and Information Service Committee, hereinafter referred to as the "Committee," which shall be appointed annually by the President of the CCCBA. The number of Committee members shall be not less than eight (8), including the Chairperson of the Committee. No person shall be a member of the Committee for longer than four (4) successive years, except that when a member has provided extraordinary service, the Chair of the Committee shall have the discretion to recommend to the President of the CCCBA that such member's term be extended for a finite number of years. Any person can serve on the Committee for a second term following an interval of at least one (1) year during which s/he is not a member of the Committee. At least fifty per cent of the Committee shall be active members of the State Bar of California, and at least fifty per cent of the Committee shall not receive referrals from the LRIS.

B. The Committee shall have the responsibility of regularly reviewing these Rules and making such changes and additions hereto as may, from time to time, be deemed appropriate to carry out the purposes set forth above, upon the approval of the Board of Directors of the CCCBA.

C. The CCCBA and the Committee expressly reserve the right to decline to make the Service available to any person.

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

A. The Service shall be operated through separate panels of lawyers, and referral for service under these Rules shall be made to one of those panels. The Committee may establish requirements for qualification to such panels for those areas of the law and mediation that it deems necessary.

B. A majority vote of the Committee shall be necessary to adopt panel requirements.

C. There shall be the following Experience Panels: criminal law; family law; FLARe (family law mediation); limited representation (family law); moderate means (family law & housing); juvenile law; personal injury; probate, estate planning & trust law; and civil mediation.

D. There also shall be Level 1 and Level 2 General Panels, which may be divided into as many sub panels as the Committee determines to be appropriate. Experience qualifications for the Level 1 General Panel limit the number of categories selected to three (3), and require the applicant to certify that within the last three (3) years, a minimum of 25% of his/her practice has been in each chosen category and that he/she possesses the knowledge and skill to perform legal services in each selected category or subcategory in a competent manner. If the applicant does not meet these experience requirements, he/she must choose a mentor experienced in the selected category(s) from a list provided at the time of referral. Experience qualifications for the Level 2 General Panel allow applicants to select unlimited categories, but require the applicant to certify that he/she has competently handled at least three (3) cases within each chosen category within the past three (3) years.

E. The requirements for each Experience Panel shall be reviewed periodically by the Committee.

### **RULE 4 - MEMBERSHIP AND ELIGIBILITY**

A. Members of the LRIS must meet the following requirements:

- 1. Be an active member of the State Bar of California;
- 2. Shall not have been removed from a Lawyer Referral Service within the past two years;
- 3. Over 50% of the member's practice shall be in Contra Costa County and the member shall maintain at least one office in Contra Costa County;
- 4. Shall not currently be the subject of State Bar disciplinary proceedings nor have any current criminal charges pending without satisfactory explanation to the Board of Directors;
- 5. Shall never have been the subject of State Bar disciplinary proceedings closed in a manner adverse to the member, including matters closed by private removal, nor shall the member ever have been convicted of a criminal offense without satisfactory explanation to the Board of Directors of the Association;
- 6. Shall provide continuing proof of a policy of errors and omissions coverage with a minimum of \$100,000.00 liability limits; \$300,000.00 aggregate;
- 7. Pay an annual membership fee and execute the membership agreement and application(s), including experience panel applications where relevant.

B. An annual membership fee shall be paid by each member, payable on admission and on January 1 of each successive year. The fee shall be determined by the Committee.

C. Any applicant may be refused membership on the Lawyer Referral and Information Service upon failure to meet any one or more of the requirements set forth herein.

D. Rejected applicants must be advised of the grounds for the rejection.

#### **RULE 5 - RESIGNATION, SUSPENSION AND REMOVAL**

A. Any panel member may resign at any time with completion of reports on all unreported referrals and payment of any fees due.

B. Any panel member may be suspended for so long as there is a failure, after a 20 day written notice, to:

1. Pay any required fee;
2. Submit all required reports.

C. Any panel member may be suspended without notice in exigent circumstances at the discretion of the Executive Director of the CCCBA provided that:

1. The panel member is notified within 48 hours of the fact of the suspension and the reasons for it; and the Committee receives such notification within 10 days.
2. The panel member is given an opportunity to respond within a reasonable time after action by the Executive Director (hereinafter referred to as "Director") and to challenge the Director's decision.
3. If the panel member does not respond, and the Director decides that continued suspension or other disciplinary action is appropriate, or if the Director so decides after consideration of the panel member's response, the matter shall be considered at the next regularly scheduled meeting of the Committee.
4. A matter brought to the Committee under this provision shall be considered a "complaint" and be handled thereafter according to the Rules for Suspension and/or Removal.
5. Exigent circumstances are those situations where the facts which gave rise to the complaint, if known to the client, would likely affect a client's willingness to be represented by that attorney; or where such facts, if true, would likely bring discredit or disfavor on, or otherwise adversely affect the Lawyer Referral and Information Service and the Contra Costa County Bar Association.

D. Any panel member may be removed from any or all panels or suspended therefrom or otherwise disciplined, in accordance with the Rules for Suspension and/or Removal.

E. Any panel member's application for renewed membership may be withheld from processing or rejected where the panel member has received notice under section B. of this Rule and the failure has continued into the next membership year.

#### **RULE 6 - EXPERIENCE PANEL QUALIFICATIONS PROCEDURES**

A. Each eligible applicant for a particular panel or panels must be found qualified for such panel by the Director or the Committee.

B. Each applicant's written application and qualifications statement shall be initially reviewed by the staff to determine prima facie compliance with all general eligibility rules and qualifications for the particular panels applied for.

C. The Director may approve applications for experience panels if the applicant meets the standards for such panel or panels.

D. Applicant must be attorney-of-record and have done a substantial amount of work on each case listed in the application. Jury trials count only after submission to jury. If the applicant's experience is outside of California, the applicant must state how and why the experience is equivalent to the state requirements. If the applicant cannot meet the stated requirements for panel membership but believes that s/he may qualify by reason of substantial equivalent experience, such experience should be outlined on a separate sheet of paper and attached to the application.

E. Qualifications statements may be subject to verification by the Committee.

F. The Committee may require the applicant to furnish additional information, either orally or in writing, or both, relevant to the applicant's qualifications for a particular panel, and may further require substantiation of any response by the applicant. The Committee may also seek independent verification of any applicant's response and shall otherwise perform the function of qualifying applicants for the panels maintained by the LRIS.

G. Except as expressly provided herein, determination of what is substantial compliance with particular qualification requirements, or what is equivalent experience or qualification, shall be solely within the discretion of the Committee.

H. Applicants who fail to comply or qualify must be promptly notified in writing of that fact and advised of the particular eligibility requirements and/or qualifications found lacking and given an opportunity to furnish additional information.

I. Any applicant who has been found not to qualify for a particular panel or panels and who has otherwise complied with these Rules and all requests made hereunder, shall have the right to appeal such finding to the Committee by written notice given within twenty (20) days of her/his being notified of her/his failure to qualify.

J. The vote of a majority of the Committee members present shall be required to overrule the previous finding of the Director or Committee. The appeal shall be granted or denied within forty-five (45) days of the written notice of appeal unless time is extended with applicant's consent.

K. All communications, deliberations, results, and records of the Committee's qualifications activities shall be confidential.

**RULE 7 - APPEALS**

Decisions of the Committee may be appealed to the Board of Directors of the CCCBA. The Board of Directors may take whatever action it deems appropriate in light of the facts and circumstances of the particular appeal. Action of the CCCBA Board of Directors shall be conclusive.

**RULE 8 - FEES**

A. Each member shall conduct personally the initial consultation with each referred client at the appointed time in the member’s office, for at least one-half hour. The LRIS Staff will collect the applicable consultation fee. The member shall establish a fee agreement in advance with the client if additional compensation is to be sought for any consultation or other services beyond the initial one-half hour.

B. Each member shall promptly remit the appropriate referral form to the Lawyer Referral and Information Service indicating the status of each client referred to them within 30 days of the referral date or be placed on inactive status. Failure to return required referral forms (including the Case Status / Accounting Report referenced in 8.C.2) within the time specified may result in administrative suspension. For a first offense, payment of a reinstatement fee of \$65 will be required before the attorney is placed back on active rotation. Payment of a \$250 reinstatement fee will be imposed for a second offense, and removal from the panel may occur for a third offense.

C. Each member shall pay a percentage fee to the LRIS for cases referred to them by the LRIS on the following bases:

1. For all matters, except Moderate Means and FLARe, fifteen percent (15%) of the total fee collected.
2. When the member pays the percentage fee to the LRIS, the member shall also submit a fully completed and executed Case Status/Accounting Report. The Association reserves the right to request back-up documentation for all Case Status/Accounting Reports submitted, and the member agrees to provide such documentation.
3. If the member finds he/she cannot represent the client, the member will initially attempt to refer the matter back to the LRIS for assignment to another attorney. If that is impossible or unrealistic, and the member must refer the matter to another attorney, the member will pay a percentage fee to the LRIS of 15% of any fees paid to them by the new attorney.
4. The member shall pay interest of 10% per annum on any fee the member fails to pay the LRIS within sixty (60) days from the date the fee is due.
5. For those clients referred by the LRIS, the member shall not charge a fee any higher than those charged to clients not referred by the LRIS.
6. In the event that it is necessary for the LRIS to engage the services of an attorney to collect fees payable pursuant to these Rules, CCCBA shall be entitled to attorney fees and costs for any and all collection activities, including, but not limited to arbitration and/or court proceedings.

**RULE 9 - ORGANIZATION OF PANELS**

A. The LRIS shall consist of a variety of sub-panels as the Committee establishes. The composition of, and referral to, sub-panels, will be based on individual clients’ needs.

**RULE 10 - FEE ARBITRATION**

A. Applicants for membership shall agree in writing to abide by all rules of the LRIS.

B. In the event of any dispute between the LRIS and the member regarding payment of any fees or another financial issue, the member agrees to submit said dispute to mediation and, if necessary, binding arbitration. Discovery shall be permitted in the arbitration process pursuant to CCP §1283.05, and the parties shall have fifteen (15) days within which to select a mutually agreeable arbitrator from the Contra Costa County Superior Court list of arbitrators. In the event the parties are unable to agree on an arbitrator, the ADR Services Office of the Contra Costa Superior Court shall choose one. The prevailing party shall be entitled to recover all reasonable attorneys’ fee.

**RULES 11 - DUTY TO ADVISE AND REPORT**

- A. Each member shall have the following duties:
1. In the event of a fee dispute with a referred client, to advise the client of the availability of mediation and/or arbitration, and to cooperate with the client by bringing the dispute to a prompt conclusion.
  2. In the event a referred client fails to keep the initial appointment, to so advise the LRIS by completing the LRS referral form and forwarding it to the LRIS within three days of the appointment.
  3. Each member shall also comply with other administrative rules as may be promulgated by the Committee from time to time.

**RULE 12 - AMENDMENTS**

These rules may be amended by a vote of the majority of members of the Committee subject to approval of the Board of Directors of the Bar Association.

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**RULES**  
**FOR SUSPENSION AND/OR REMOVAL**  
**FROM LRIS PANEL**

**I. Commencement of Actions**

A. Upon receipt of a complaint from any source regarding the conduct of a member of the LRIS panel, the Director shall forthwith investigate the complaint. Said investigation shall be conducted with due diligence. The Director shall obtain a response to the complaint from the panel member unless requested not to do so by a governmental or regulatory agency.

B. Forthwith upon completion of the investigation, the Director shall prepare a written report of investigation, whenever in his/her opinion there is reasonable cause to believe grounds exist for suspension or removal of a panel member under these

rules. Otherwise, the matter shall be closed with no action, and, where appropriate, the accused panel member shall be so notified.

C. The Director shall periodically render reports to the LRIS Committee of the disposition of such complaints.

## **II. Suspension Pending Hearing**

A. The Director shall promptly submit to the Committee the report of investigation containing the following items:

1. A summary of the complaint and a summary of the response, if any, of the accused panel member, *and*
2. A recommendation regarding interim suspension.

B. Upon receipt of the Director's report, the Committee shall forthwith decide what interim action it deems appropriate and instruct the Director to implement its decision.

## **III. Notice of Interim Suspension**

A. The LRIS Committee shall adopt a standard form of Notice of Interim Suspension, which shall contain a statement of the charges, a statement of whatever interim action the Committee has taken, and a copy of Part IV of these Rules.

B. Decisions on interim actions may be made without convening a meeting of the entire Committee, but a majority of the entire Committee shall be necessary to make such a decision.

C. The Notice shall be sent to the panel member at his/her last known address. The Director shall send such Notice promptly upon receipt of the decision of the Committee.

## **IV. Hearing Procedures**

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

An attorney who desires to have a hearing after a Notice of Interim Suspension shall, within 15 days of the service of the Notice, send a written request for a hearing to the Director or, alternatively, submit a written rebuttal to the alleged violations together with any supporting material and arguments, which shall be mailed to the Director.

### **B. Permanent Suspension**

1. If a written rebuttal is submitted, the Committee shall make a determination as to the permanent suspension only after a full consideration of all rebuttal documents. This will take place at the next regularly scheduled meeting of the Committee.
2. If a hearing is requested within fifteen (15) days of service of the Notice of Interim Suspension, the hearing shall be conducted, at a time to be determined, by a Subcommittee consisting of three members of the Committee. The Subcommittee shall have jurisdiction to hear all matters under this rule. The attorney may submit a written rebuttal to the alleged violation prior to or at the time of the hearing. Only members who have been present during the entire hearing may vote to decide the case unless the accused member and the Director stipulate otherwise.
3. Any decision of the Subcommittee shall be reached by a majority of those voting.
4. If no hearing is requested and no rebuttal is submitted,

interim suspension shall become permanent upon the expiration of twenty (20) days.

### **C. Rules Applicable During Hearing**

1. The Subcommittee shall elect one of its members present to preside at each hearing.
2. The panel member or his/her representative may present evidence and call witnesses in defense or mitigation.
3. The proceedings shall be recorded and transcribed only if requested by the accused panel member who shall bear all costs thereof including a transcript copy for the use of the LRIS.
4. The presiding officer shall make all evidentiary rulings on behalf of the Subcommittee unless a member of the Subcommittee requests a vote on any ruling, in which case the majority shall decide whether or not to receive the evidence.

### **D. Grounds for Removal, Suspension or other Disciplinary**

#### **Action following Hearing**

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

1. The member has violated any Rule of Professional Conduct of the State Bar of California, or
2. The member has violated any Rule of the LRIS, or
3. The member has committed a crime.

## **V. Finality of Decision**

A. All decisions of the Subcommittee shall be final and transmitted in writing to the panel member within thirty (30) days of submission. There shall be no further right of review or appeal by any party.

B. Following its decision, the Subcommittee may direct where appropriate that any or all of the following steps be taken by the staff:

1. Notification of The State Bar of California of the action taken,
2. Notification of other clients referred by the LRIS to the panel member of the action taken, and/or

C. In the event the Subcommittee finds a lack of sufficient evidence to sustain the charge, the Subcommittee may, in its discretion, direct all references to any suspension expunged and/or to the extent possible make up lost referrals.

## **VI. Any of the following circumstances may invoke a complaint and possible disciplinary action:**

1. Failure to submit promptly all required reports and money;
2. Providing false information to LRIS or clients;
3. Unexcused failure to meet clients at the appointed time;
4. Unexcused failure to appear at a scheduled hearing for client;
5. Failure to keep a record of referred clients for one (1) year. Such records must be kept for a longer period so long as percentage fees may become due;
6. Display of rude or belligerent attitude toward referral staff or

clients;

7. Failure to provide one-half hour consultation;
8. Repeated failure to return telephone calls or answer letters of clients or referral staff;
9. Failure to have clear fee agreement with client.
10. Failure to keep client informed of progress of case;
11. Failure to explain resolution of case to client;
12. Unexplained delay of case by attorney which resulted in depriving client of timely economic benefit;
13. Failure to return files promptly to client;
14. Repeated refusal to accept referral of case from LRIS;
15. Failure to respond to or cooperate in the resolution of client's complaint;
16. Failure to maintain during period of panel membership a full-time office in Contra Costa County;
17. Use of duress to collect fee from client;
18. Unexcused failure to file legal action or decline representation promptly after consultation with client and research of case;
19. Failure to give due consideration to the client's ability to pay when arranging the terms for compensation;
20. Commencement of disciplinary proceedings against the member by the State Bar;
21. Filing of an accusatory criminal pleading against the member;
22. The member's conviction of a crime or decision by State Bar imposing disciplinary action against the member;
23. Sexual harassment

In determining whether a past crime or disciplinary decision on a pending criminal charge or disciplinary proceeding warrants removal, suspension, or other discipline by the Lawyer Referral and Information Service, the Subcommittee should consider:

1. How and to what extent the matter appears to affect the quality of the attorney's representation of or mediation services for his or her client(s):
2. How and to what extent the attorney will be able fully to serve clients during the pendency of the action;
3. Whether the nature and quality of the underlying offense, if known by the client, would be likely to have a substantial effect on the client's willingness to be represented by, or receive mediation services from, that attorney;
4. Whether the continued membership of the attorney is likely to bring discredit or disfavor on, or otherwise adversely affect, the Service.

