



LOCAL RULES OF OPERATION

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**RULES OF OPERATION OF THE LAWYER REFERRAL AND INFORMATION SERVICE OF
THE SAN DIEGO COUNTY BAR ASSOCIATION**

RULE 1: PURPOSE

The purposes of the San Diego County Bar Association’s Lawyer Referral and Information Service are to provide:

- (a) a way to refer individuals and businesses to a qualified, insured lawyer who is able to render needed legal services;
- (b) information about lawyers and the availability of legal services which will aid the public in their selection of a lawyer;
- (c) information to the public concerning when and where to seek legal and dispute resolution services; and
- (d) improved access to legal services to the public.

RULE 2: DEFINITION OF TERMS

- (a) “SDCBA” means the San Diego County Bar Association.
- (b) “Service” means the Lawyer Referral and Information Service (“LRIS”)
- (c) “Committee” means the LRIS Committee.
- (d) “Client” means a person who contacts LRIS for information and/or referral to a lawyer.
- (e) “Board” means the SDCBA Board of Directors.

RULE 3: GOVERNANCE

- (a) **BASES OF GOVERNANCE:** The Service will operate pursuant to Business & Professions Code § 6155, the “Rules and Regulations of the State Bar of California Pertaining to Lawyer Referral Services Including Minimum Standards for a Lawyer Referral Service in California,” and the Rules of Operation of the Lawyer Referral and Information Service of the San Diego County Bar Association
- (b) **CALIFORNIA STATE BAR MINIMUM STANDARDS:** The LRIS will meet the Rules and the Minimum Standards for a Lawyer Referral Service in California, which Minimum Standards and any amendments thereto as may be adopted from time to time by the State Bar of California are incorporated by reference.

- (c) ADMINISTRATION OF LRIS: The Executive Director of the SDCBA and designees will administer the LRIS program pursuant to these rules.

The LRIS will keep records, arrange for publicity, develop requisite statistics, respond to any program requests by the Board or the Committee, and undertake any other duties consistent with the purposes of LRIS.

- (d) SDCBA BOARD OF DIRECTORS: The SDCBA Board of Directors will oversee all matters relating to LRIS. The SDCBA President will appoint Committee members with the approval of the Board of Directors.
- (e) LRIS COMMITTEE: The LRIS Committee will consist of nine voting members. These members will serve a term of three years, staggered for continuity and with terms commencing the beginning of the calendar year. A quorum consisting of the majority of the Committee must be present to conduct business.

LRIS COMMITTEE MEMBER ROLE AND DUTIES:

- ◆ Oversee the operations of the Service, provide strategic planning and input into the goals and mission of the program, and make recommendations to the SDCBA Board regarding programs rules and procedures. *All personnel matters, staffing, and/or salaries are the responsibility of the Executive Director.*
- ◆ Prepare and attend monthly meetings as determined by the Chair. Meetings are held at the Bar Center at noon and lunch is provided. Participation at each meeting is extremely important. LRIS Committee members may not miss more than three (3) regularly scheduled meetings in a calendar year without an appropriate excuse to the LRIS Director or Chair.
- ◆ Attend the Annual Retreat, which is held the first quarter of the year at an offsite location, the details of which will be announced months prior to the meeting.
- ◆ Annually review and analyze a random sampling of at least 10% of the clients referred to panel attorneys to assess clients' satisfaction with attorneys' handling of the cases and whether the clients felt the fee charged was reasonable.
- ◆ Review new attorney panel applications for possible acceptance.

- Review and monitor Subject Matter Panel qualifications
- ◆ Recommend additional panels and set qualifications.

- ◆ Review ongoing activities, and consider possible new activities, that serve persons of limited means; these may include providing legal services at reduced fees or providing free legal assistance.

- ◆ Review, monitor, and appropriately act on identified issues regarding panel member activity, actions, or inactions. For example: client complaints, delinquent reports, and non-payment of fees.

- ◆ Annually review the Rules of Operation of the Modest Means Program, the program's financial eligibility and asset ceiling guidelines, and current market rates for legal fees.

RULE 4: ESTABLISHMENT OF PANELS

- (a) CALIFORNIA STATE BAR MINIMUM STANDARDS: Pursuant to Rule 12.2. of the State Bar Minimum Standards, the LRIS will establish one or more specific subject matter panels and is encouraged to establish modest means, foreign language panels, and other such panels that respond to the referral needs of the public, an attorney's eligibility to participate will be determined based on attorney's experience and other substantial objectively determinable criteria.

- (b) CURRENT SUBJECT MATTER PANELS: The list of current subject matter panels will be posted in the "For Members – Join LRIS" section of the SDCBA website.

- (c) SCOPE OF SERVICES RENDERED BY PANELISTS:
 - ◆ FULL REPRESENTATION: Panel members may retain cases by providing full representation to clients.
 - ◆ LIMITED SCOPE REPRESENTATION: Panel members also may accept limited scope representation cases. Limited scope representation is a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of legal services will be limited to specific tasks that the attorney will perform for the person. (CA Rules of Court, Rule 5.425)

- (d) ESTABLISHING NEW PANELS: The LRIS Committee may recommend to the SDCBA Board the establishment of new panels that it determines will serve the public and may develop a description of the panel and qualifications for attorney participation. Panels must be approved by the SDCBA Board and The State Bar of California.

(e) **REVIEW OF ATTORNEY QUALIFICATIONS TO SERVE ON A PANEL:** The LRIS Committee is empowered to review and revise the qualifications required for a Member to serve on each referral panel. Each year, all panel members must certify that they continue to meet the qualifications as established by the LRIS panel. Panel members will be sent a yearly certification form to complete and return to the program. If, in the Committee's opinion after such review, a member of any referral panel is not qualified to continue to serve on any panel, the Committee may notify the member of suspension from that panel.

Grounds for panel members suspension under this section include the failure to follow these obligations:

Referred clients – A Member must:

- (g) Communicate with referred clients and return telephone calls and emails within 24 hours.
- (a) Handle referred cases with reasonable professional competence and diligence
- (b) Accept telephone calls from referred clients and give each person a FREE, up to 30-minute consultation.
- (c) Not over-charge a referred client to make up for the 15% forwarding fee.
- (d) Refer all clients back to the LRIS program when you are unable to assist them. Do not refer to other attorneys as this can result in termination from the program.
- (e) **Never** Instruct a referred client to disregard or ignore correspondence sent by the SDCBA or LRIS program.

With respect to contact with the SDCBA team members and LRIS Committee, a Member must:

- (f) Communicate with SDCBA staff and committee members by returning telephone calls, emails or letters within 48 hours of receipt.
- (g) Communicate with program staff and committee members in a professional manner and courteous manner. Profanity, rude and abusive behavior will not be accepted or tolerated.
- (h) Respond promptly to complaints within 10 working days.
- (i) Participate and fully cooperate in any audit and/or an investigation by the program.

A member must also:

- Complete monthly reports about each referral accepted (here “accepted” means that the referred client **retained attorney** to perform any services and/or was charged and paid **any** fee)

- Complete monthly reports within 30 days of receipt. A finding of intentional or careless violation to pay agreed forwarding fees **will** result in termination from the panel **and** being reported to the California State Bar.
- Notify the SDCBA of every payment received in the monthly reports
- (j) Comply with the LRIS rules and maintain continuous eligibility.
- (k) Remit a 15% forwarding fee on all fees received from any referral.
- (l) Not engage in unethical or offensive conduct; engaging in conduct that is detrimental to the legal profession or the SDCBA, or that is inconsistent with the stated mission and goals of the SDCBA; or engaging in conduct that is unbecoming of a member or conduct prejudicial to the interests of the SDCBA or the legal profession.

RULE 5: ATTORNEY REGISTRATION AND ELIGIBILITY

- (a) ELIGIBILITY: Any attorney engaged in private practice in San Diego County may apply to the LRIS program.

Each panel member must:

- ◆ Be an active member of the State Bar of California with no record of discipline, including but not limited to probation, suspension, or failure to pay State Bar dues within the preceding twelve months. A panel member must notify the LRIS program in writing within ten days of any discipline imposed by the State Bar;
- ◆ Maintain an office in San Diego County, the address of which must also be the address of record with the State Bar of California. The panel member must regularly practice law in San Diego County and be available to receive mail, accept service, and meet with clients in San Diego County at a designated office space during regular business hours;
- ◆ Maintain an operative office telephone number where the member can be reached during normal business hours and is available for clients to call;
- ◆ Maintain a working email address;
- ◆ Agree in writing to abide by the LRIS Rules of Operation and any subsequent changes thereto;
- ◆ Complete, sign, and return the LRIS attorney application and membership agreement to the LRIS offices; and
- ◆ Submit to binding arbitration by the Fee-Arbitration Committee or other body approved by the Board for any fee

dispute between the member and the client referred by LRIS, if the client so elects.

- ◆ Any attorney who is certified by the State Board of Legal Specialization as a specialist in a particular field will be qualified for membership on the subject matter panel for such field by virtue of his or her certification.

(b) **RULES OF PROFESSIONAL CONDUCT:** Each panel member must be guided, governed, and bound by the Rules of Professional Conduct as applied to members of the State Bar of California. All panel members must treat all referred clients and SDCBA staff with respect and professionalism. Failure to do so may result in termination from the service.

(c) **ATTORNEY-CLIENT PRIVILEGE:** A disclosure of information to a lawyer referral service for the purpose of seeking legal assistance will be deemed a privileged lawyer-client communication, except that in Modest Means cases, the panel attorney is authorized to disclose to the LRIS any information indicating that the client is not, or is no longer, financially eligible to receive legal services under the Modest Means Program.

(d) **REGISTRATION AND APPLICATION FEES:** Each member of the service must pay an initial application fee per panel application and remit the annual membership fee (which varies for SDCBA members and non-SDCBA members). There is no annual registration fee for attorney participation in Modest Means and Service Member Civil Relief Act Pro Bono panels. Panel registration and applications fee are set by the SDCBA Board.

The membership year is January 1 through December 31. To avoid LRIS inactive status, the panel member must pay the annual membership fee by January 1.

(e) **INSURANCE/LAWYER WARRANTIES/INDEMNIFICATION:** Members must:

- ◆ Maintain errors and omissions insurance in an amount not less than \$100,000 for each occurrence and \$300,000 aggregate per year;
- ◆ Waive liability of, and agree to indemnify and hold harmless, the San Diego County Bar Association and its members (and the Committee and its agents) from any and all claims, demands, actions, liability, or loss, which may arise from, or be incurred as a result of, the operation of the Service or referrals of clients to him or her through the Service, or the use of information contained in the registration form;

- ◆ Agree that the information contained in the registration form may be furnished to applicants in the operation of the Service;

- ◆ Agree that his or her name may be withdrawn from any and all classifications, if any, of the Service at any time by the vote of the majority of the members of the SDCBA Board of Directors.

(f) APPLICATION PROCESS: All attorneys are must complete the following forms and return them to LRIS:

- ◆ LRIS Membership Application
- ◆ Subject Matter Panel Application/s
- ◆ Insurance Declarations Page
- ◆ LRIS Membership Agreement & Checklist
- ◆ Two Letters of Recommendations on LRIS form
- ◆ Resume or CV (optional)
- ◆ Membership and registration fee payable to LRIS

(g) APPLICATION REVIEW: The Committee meets each month to review panel applications. If an application is approved by the Committee, the panel member will be placed on the subject matter panel or panels to which he or she applied. If the panel application is not approved, the LRIS Director will contact the attorney stating the reasons why the Committee did not approve the application. The attorney may be able to re-submit the application with new qualifications.

(h) REFERRAL ROTATION: Referrals will be made on a rotating basis. When a referral to an attorney on a panel is completed, the name of that attorney will be placed at the bottom of that panel rotation list, provided that the attorney has promptly forwarded all consultation fees and promptly returned or responded to case disposition reports. In the event the attorney has not, his or her name will be removed from rotation, pending response or suspension from the program. Referrals requiring fluency in a foreign language, to the extent possible, will be referred to an attorney having fluency in that language.

(i) VOLUNTARY WITHDRAWAL FROM PANELS: Any panel member may withdraw from the Service upon giving five (5) days written notice to the program. The attorney must continue to submit all payments and monthly reports on all referrals until all cases are closed and completed. Attorneys must uphold all legal responsibilities to the client.

RULE 6: REFERRAL PROCEDURES

- (a) **INTAKE:** Any person may contact LRIS and request a referral to an attorney. LRIS Specialists will decide if the person should be referred to an attorney and, if so, to which panel.
- (b) **AGENCY REFERRALS:** If LRIS Specialists determine that they cannot make a referral to an attorney, the client may be given the names of legal agency or organizations that may be of assistance.
- (d) **REFERRALS TO OTHER ATTORNEYS:** An attorney to whom a client is referred by LRIS may not refer the client to another attorney, but may allow other attorneys within his or her firm to work on the matter. Should the attorney associate other attorneys within his or her firm, however, the attorney to whom the client was referred by LRIS remains primarily responsible for all aspects of the matter, including payment of the forwarding fee to LRIS. If the attorney to whom the client is initially referred no longer wishes to handle the matter, and no attorney within the same firm is available to handle the matter under the initial attorney's supervision, the initial attorney must refer the client back to LRIS to be given another referral. If the initial attorney refers the client to another attorney in violation of this section, the initial attorney will remain liable to pay LRIS all forwarding fees generated by the matter, even while a new attorney represents the client. In addition, any violation of this rule constitutes ground for possible suspension or removal from LRIS.
- (e) **DEATH OR INCAPACITATION OF A PANEL MEMBER:** If the panel member dies or becomes incapacitated, the attorney who takes over the deceased attorney's caseload must notify the program within 30 days. The subsequent attorney must complete the LRIS monthly reports and pay any forwarding fee due to the LRIS, pursuant to these rules, regardless of whether the subsequent attorney is a panel member or member of the LRIS.

RULE 7: FORWARDING FEES AND ATTORNEY REPORTING

- (a) **PANEL MEMBER RECORDS AND REPORTS:** Each panel member must keep a record of the name of each client referred to him or her through the Service, the date of the referral, the general nature of the matter referred, and the total forwarding fees received. Panel members will be sent status reports on the first day of each month.

- (b) MONTHLY REPORTING: Monthly reports are emailed on the first business day of each month. Responses to all reports are due within 30 days of receipt. Reports must be reviewed and completed by the LRIS panel member and/or support staff. Reports can be updated either online or can be printed and returned to LRIS with all case information and dispositions completed. Reports will not be accepted that do not list a disposition.

If applicable, reports must list attorney fees collected and forwarding fees due on all retained cases. All forwarding fees can be paid online via credit card or check within 30 days of the date of the monthly report. Failure to return the monthly report within 30 days may result in administrative suspension and past due interest.

- (c) FORWARDING FEES: Each panel member will pay to LRIS a forwarding fee equal to 15% of any fees received by him/her on any matters referred by LRIS except attorney on the Modest Means and Servicemember Civil Relief Act Pro Bono program.
- (d) USE OF FORWARDING FEE. All forwarding fees may be used for the general purpose of supporting LRIS and other activities and programs in the public interest, subject to the provisions of Rule 17.2 of the Minimum Standards for a Lawyer Referral Service in California.
- (e) MATTERS COVERED BY FORWARDING FEE: The 15% forwarding fee referred to in Rule 7(a) will be due on all fees received by the panel member, and by any lawyer with whom the panel member works, on the matter or matters initially referred and any matter arising out of, concerning, relating to, or derivative of the same facts, transactions and/or circumstances as the referred matter or matters. The fee will also be due from any lawyer to whom the panel member refers such matters, whether such referral is made with or without the consent of the Service.
- (f) PAYMENT OF FORWARDING FEES: The panel member will hold in trust that portion of fees due to LRIS and remit all fees within 30 days of receipt of the case status report. Panel members will owe interest at the rate of 10% per annum on all amounts past due and owing the LRIS. The 10% interest will begin accruing after a 30 day grace period has expired. In the event of any dispute regarding the amount of forwarding fees due the LRIS or related to the non-payment thereof, the prevailing party will be entitled to recover reasonable costs and reasonable attorney's fees.

RULE 8: IMMUNITY FOR LAWYER REFERRAL SERVICE, DUTY TO DISCLOSE STATE BAR ACTIONS (*excerpts from California Civil Code §43.95*)

- (a) There may be no monetary liability on the part of, and no cause of action for damages may arise against, any Lawyer Referral Service that is authorized by the State Bar of California and operates in accordance with the State Bar Minimum Standards, when referring members of the public to any professional member of the service, or for acts of negligence or conduct constituting unprofessional conduct committed by the professional to whom a member of the public was referred.
- (b) There will be no immunity if the Service, while making a referral, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by the State Bar of California against that attorney. There will be no time limit on the duty to disclose. There will be no duty to disclose a disciplinary action where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred.

RULE 9: SUSPENSION AND REMOVAL OF PANEL MEMBERS

- (a) **SUSPENSION:** A panel member may be suspended from the LRIS immediately and taken off the LRIS panel rotation for violating any of the following reasons:
 - ◆ Failure to provide proof of malpractice coverage in the specified limits;
 - ◆ Failure to comply with all requested case disposition, status reports and other required reports within specified deadlines;
 - ◆ Failure to pay a required fee or forward an outstanding fee within specified deadlines;
 - ◆ Failure to maintain good standing with the State Bar of California.
 - ◆ Failure to participate and cooperate in good faith with an audit and/or investigation by the SDCBA or LRIS subcommittee.
 - ◆ Failure to cooperate **with** the LRIS Rules of Operation agreement.

After Notice of Suspension, a Member shall have 10 calendar days to respond to the notice of suspension to address and propose an acceptable remedy for the issue(s) set forth in the Notice of Suspension. Failure to respond, or an insufficient response, will result in Termination of the Member from all panels.

- (b) **TERMINATION:** A panel member may additionally be immediately suspended, and/or permanently terminated and removed from all LRIS referral panels, for any of the following reasons:
 - ◆ Any reason that placed a panelist on suspension if not resolved;
 - ◆ Failure to handle referred cases with reasonable professional competence and diligence;

- ◆ Substantially over-charging a referred client;
- ◆ Falsification of any material statement made to qualify for any panel or made in any required report;
- ◆ Failure to have a clear, written fee agreement with a referred client;
- ◆ Repeated failure to return telephone calls or answer letters from clients or referral staff in a timely manner;
- ◆ Failure to comply with the LRIS rules including, but not limited to, fulfilling all reporting requirements, and/or maintain continuous eligibility;
- ◆ Engaging in unethical or offensive conduct; engaging in conduct that is detrimental to the legal profession or the SDCBA, or that is inconsistent with the stated mission and goals of the SDCBA; or engaging in conduct that is unbecoming of a member or conduct prejudicial to the interests of the SDCBA or the legal profession; or
- ◆ Engaging in any other conduct deemed detrimental to the mission and objective of the LRIS program and/or the SDCBA.

(c) **TERMINATION PROCESS:** The following procedures will apply to any termination:

- (i) Not less than 15 calendar days prior to the effective date of termination, the LRIS Committee of the SDCBA shall notify the member in writing of the termination and reason(s) therefor. Such notice may be given by any method reasonably calculated to provide actual notice.

Not less than 5 calendar days prior to the effective date of the termination, the LRIS panelist is required to notify the LRIS Director in writing he/she requests an opportunity to be heard by the LRIS Committee or other such person(s) as authorized by the SDCBA Board of Directors to make a termination determination, which may include members of the SDCBA, its Board of Directors, to decide if the termination shall be permanently imposed. The Member will be provided a list of available hearing dates to present arguments. A Notice of Hearing will be served on the Member with notice of the date, time and location of the meeting.

- (ii) The Member will be permitted to submit written evidence and argument reflecting on the issues resulting in the proposed termination. If the Member intends to submit on a written brief only, without oral argument, a maximum of 10 pages of combined evidence and argument will be considered. Absent a showing of good cause, live testimony from any witness other than the Member is not permitted. The Member can submit written

statements signed and dated by no more than three witnesses absent a showing of good cause that the more than three written statements should be considered.

- (iii) Character evidence and witness testimony will not be considered and are not allowed at the hearing. The Member will be allowed a maximum of 15 minutes to present his/her evidence and argument. Once completed, a decision shall be rendered, and the Member provided written notice of the decision within 30 calendar days of the hearing date. An additional 30 days to render a decision is authorized if deemed necessary by the LRIS Committee. The LRIS Member will be notified within 30 days of the hearing date of the committee's decision, which, if not for complete termination, may impose additional conditions on the Member's continued access to the LRIS service, including educational requirements for Member and his/her/its staff, and additional documentation and reporting requirements.