

**NEW YORK STATE BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE PLAN**

PREAMBLE. The New York State Bar Association believes that an important means for the legal profession to fulfill its responsibility to make legal counsel available to members of the public is through an effective lawyer referral service. Several local bar associations operate well-organized lawyer referral services on a local or regional basis. Many areas of New York State, however, do not have the benefit of an operating lawyer referral service. The New York State Bar Association wishes to create and operate a statewide lawyer referral and information service to serve these areas and to assist and cooperate with local bar association lawyer referral programs.

I. There is hereby created the New York State Bar Association Lawyer Referral and Information Service (“the Service”).

II. OBJECTIVES. The purposes and objectives of the Service are:

A. to serve the public by administering a coordinated lawyer referral and information system throughout New York State;

B. to operate a service by which any person may be referred to a lawyer who is able to render the needed legal services;

C. through advertising, to provide information to the public about lawyers and the availability of legal services;

D. to supplement but not to duplicate local and regional lawyer referral services presently operating in the State; and

E. to provide information to the public about community and legal services available, including local bar referral services, legal aid societies, legal service programs, public interest law organizations and other appropriate service providers throughout the State of New York.

III. THE COMMITTEE. The Committee on Lawyer Referral Service (“the Committee”) shall be charged with the operation and administration of the Service. The Committee shall be composed of not fewer than six members nor more than twenty-one members, appointed by the Association’s president. The term for each member shall be for not less than one year nor more than three years. Appointments shall be staggered so the composition of the Committee shall be divided, insofar as is practicable, into equal numbers of one, two and three year members. A chairperson will be selected annually by the Association’s president.

IV. THE SERVICE. The Service will be operated from The Bar Center in Albany, utilizing members of the Association's staff, under the general supervision of the Committee. A person seeking a lawyer who contacts the Service will be interviewed by a staff member and a referral will be made to a participant-member of the Service on a rotating basis. The Committee may require that referrals be on the condition that the prospective client agree to pay an initial fee to be determined by the Committee for an initial office consultation of one-half hour, provided that this fee may be waived by the referral attorney. The Service shall cooperate with and assist local and regional lawyer referral services. The Service shall not make referrals to lawyers in any geographic area of the state where a comparable lawyer referral service exists; in such cases referrals will be made directly to the existing referral service. A comparable service shall be defined as one that, to the extent practicable, substantially complies with the American Bar Association Model Rules For a Lawyer Referral Service. A determination that a local or regional lawyer referral service is not comparable shall be made by the NYSBA Executive Committee upon recommendation of the Committee on Lawyer Referral Service.

V. THE PARTICIPATING ATTORNEY PANEL.

A. Any attorney who is duly admitted to practice, who is a member of the Bar of New York State in good standing, and who maintains an office in a geographic area not served by any referral service sponsored by or affiliated with any local bar association, may qualify as a participating attorney on the Service panel.

B. Applications for membership shall be in such form as may be approved by the Committee and shall be grouped by county and placed in alphabetical order with other participating attorneys in that county.

C. In submitting the application for membership on the panel, the attorney- applicant shall affirm that the attorney is a member in good standing of the Bar New York State and may list those areas of legal practice in which the attorney desires and is qualified to accept referrals. The Committee may make professional liability insurance in a minimum amount to be established by the Committee a condition for membership on the panel.

D. A participating attorney, in filing the application to become a member of the Service panel agrees that:

- (1) The attorney will grant an initial consultation of one-half hour at a standard fee to be set by the Committee, provided that this fee may be waived by the attorney.
- (2) Any charge for services beyond the initial consultation will be as agreed between the attorney and client, and in keeping with the stated objectives of the Service and the client's ability to pay. This fee will be fixed as clearly as possible during the initial office consultation.
- (3) The attorney will permit any dispute concerning fees arising from a referral to be submitted to binding arbitration if the client so petitions.

(4) The attorney will grant every client referred by the Service an appointment as soon as practicable after a request is made.

(5) The attorney will abide by all rules of the Service and will in no event hold or claim to hold the New York State Bar Association, the Service, or any of their officers, members or employees liable in connection with the operation of the Service or the use of information contained in any application or report furnished to the Service.

(6) The attorney will proceed with due diligence and will not neglect any matter referred by the Service.

E. Panel application process terms:

(1) "Service Coordinator" shall mean the manager or designated head Association staff member of the Service.

(2) "Service Panel" means the group of attorneys listed by the Service as being eligible to receive referrals of legal matters in any of the Panel Categories established by the Service.

(3) "Panel Member" or "Member" means any participating attorney listed by the Service from time to time as eligible to receive referrals of legal matters in any of the Panel Categories.

VI. FEES FOR MEMBERSHIP. Each participating attorney of the Service will pay the Service a non-refundable annual membership fee to be determined by majority vote of the Committee with the approval of the Finance Committee. The Committee may establish a higher registration fee for attorneys who are not members of the New York State Bar Association. With the approval of the Association's Executive Committee, the Service may assess additional fees as necessary to support the operation of the program, including, but not limited to, a percentage of the fees generated by referrals made to participating attorneys. All fees will be used to defray the costs of operation of the Service. Participating attorneys shall not increase their fees for legal services to clients by any cost of participation in the Service.

VII. WITHDRAWAL FROM MEMBERSHIP. A participating attorney may at any time withdraw from participation in the Service upon five days written notice to the Lawyer Referral Service Committee addressed to The New York State Bar Association.

VIII. OPERATION OF THE PANEL

A. Referrals will be made to members of the panel in rotation in the geographic area closest to the client's home or business. A participating attorney who rejects initial referrals without good cause will be moved to the bottom of the referral list.

B. Participating attorneys will accept any referral client for an initial interview in those areas of the law with respect to which they have indicated in their applications they are willing and competent. However, should any referral give rise to a conflict of interest, the

participating attorney will contact the Service, obtain a new reference for the client and cooperate in assisting the referred client to obtain legal consultation concerning the problem. Nothing in the Plan will be construed to obligate a panel member to accept employment beyond the initial consultation.

IX. REFERRAL PROCEDURES.

A. Procedures will be maintained to assure that each referral is made in a fair and impartial manner to all panel members. Procedures shall be designed to respond to all known circumstances of the client, including the subject of the legal problem presented, geographical convenience of the client, language needs, and ability to pay for desired services.

B. The referral client, to the extent feasible, shall be informed of the rules of the Service applicable to the client's case, including information about the initial consultation and the fee therefore.

X. ACKNOWLEDGMENT AND REPORT OF REFERRALS. The participating attorney shall complete and return a referral report, forwarded by the Service, within thirty days after each referral. Nothing in this Plan will require any attorney to violate the attorney-client privilege.

XI. ADDITIONAL PANELS. The Committee may establish such separate panels and subpanels, including reduced fee and no-fee panels, as it decides are appropriate and consistent with the purpose and objectives of the Service.

XII. RECORDS AND REVIEW. The Service will keep on file a confidential record of all referrals and reports of participating attorneys which will be subject to examination and inspection by the Committee and officers of the Association.

XIII. PUBLICITY. The Service will be publicized in such manner and to such extent as will fulfill its purposes and objectives, consistent with the Code of Professional Responsibility.

XIV. PANEL MEMBERSHIP DENIAL, SUSPENSION OR REMOVAL.

A. An applicant will be denied participation in the Service and a participating panel attorney will be automatically suspended or removed from the Service panel under the following circumstances:

- (1) Suspension or disbarment from practice;
- (2) Conviction of a felony in any jurisdiction;
- (3) Failure to maintain professional liability insurance in the minimum amount as may be established by the Committee; or
- (4) Failure to pay the annual LRIS membership fee.

B. An applicant may be denied participation in the Service and a participating panel attorney may be suspended or removed from the Service panel under any of the following circumstances:

- (1) Repeated rejections of referrals by the attorney without good cause;
- (2) Institution of criminal charges against the attorney involving moral turpitude, theft, embezzlement or fraudulent appropriation of property;
- (3) Submission of an application or report or furnishing of information by the attorney to the Service which is false in any material respect;
- (4) Failure to cooperate with the Committee in the investigation and resolution of a client complaint;
- (5) Imposition of disciplinary action of censure or its equivalent by an Appellate Division of the State of New York Supreme Court or disciplinary body of another state for violations of applicable rules governing professional conduct;
- (6) Engaging in conduct harmful or injurious to the objectives, reputation or interests of the Service and profession;
- (7) Repeated client complaints;
- (8) Failure to file timely reports and summaries required by the Service;
- (9) Failure to timely pay percentage fees due the Service; or
- (10) Failure otherwise to comply with the Rules of the Service or other good cause as determined by the Committee.

C. The Service shall be empowered to suspend or remove a participating panel attorney for a violation enumerated under subdivision B of this section.

(1) The Service Coordinator shall review: [1] each complaint concerning the professional conduct of Panel Members in connection with any referral and [2] any other report or notification relating to a Panel Member's fitness to receive referrals from the Service. The Service Coordinator shall make whatever investigation deemed to be reasonable and report to the Committee Chair concerning the complaint and its resolution where appropriate. The Service Coordinator may determine that a complaint or other notification warrants immediate suspension of referrals.

(2) The Service Coordinator shall notify the Committee Chair where the Service Coordinator determines, as a result of an investigation, that further action by the Committee with respect to suspension or removal of a Panel Member is necessary. If warranted, the Committee Chair shall appoint a subcommittee to investigate the complaint. The subcommittee shall conduct whatever interviews it deems appropriate. Panel Members against whom complaints are pending shall be notified of the complaint and given an opportunity to respond. Upon the completion of its review, the subcommittee may recommend to the Committee that the complaint requires no action or recommend that the Panel Member be suspended or terminated or otherwise restricted in receiving referrals from the Service or recommend some other appropriate action.

(3) After the investigative subcommittee has presented its final report and recommendations to the full Committee, and before the Committee renders its final action, the Panel Member who is the subject of the investigation shall be accorded the opportunity to address the Committee with respect to any matter

relevant to the investigation or the appropriate resolution thereof. The Panel Member may be accompanied by counsel at this appearance.

(4) The Committee shall consider the subcommittee's recommendations and shall advise the Panel Member in writing of its decision.

(5) At any time after the Committee renders a final action in connection with the resolution of an investigation of a Panel Member, the Committee Chair, in the exercise of his or her discretion, is authorized to place before the Committee a motion to amend the action previously announced. The Committee is empowered to alter in any manner the action previously rendered or to adhere to its original determination.

(6) Upon resignation, withdrawal or removal from the Service, a Panel Member is required to notify all referral clients of the Panel Member's disassociation from the Service within sixty (60) days of said separation from the Service. The Service reserves the right to make such notification to referral clients upon failure of a Panel Member to do so in a timely fashion.

(7) Any Panel Member who withdraws or is removed from panel membership shall remain bound by the terms of these rules with respect to all clients referred to them by the Legal Referral Service.

(8) Any Panel Member who has been removed from the Service, or has withdrawn from the Service during the time a complaint was pending against the Panel Member, may not reapply for membership on any panel of the Service for a period of twenty-four (24) months following the removal or withdrawal of the Panel Member.

(9) Upon receipt of a re-application for panel membership by an individual who has previously been removed from the Service, or has withdrawn from the Service during the time a complaint was pending against that Panel Member, the Service Coordinator, in consultation with the Committee, shall determine whether to grant an interview, or whether to deny the re-application without an interview. The Service Coordinator may consider any factors he or she deems relevant, including but not limited to the following:

A. The reason(s) for removal or withdrawal of the Panel Member;

B. Any remedial action taken by the Panel Member;

C. Whether the Panel Member continued to maintain professional liability insurance;

D. Whether the Panel Member complied with administrative requirements during the period since the Panel Member was removed or suspended from or withdrew from the Service;

E. How and to what extent the matter appears to affect the quality of the Panel Member's representation of or mediation services for his or her client(s);

F. 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 Panel Member; and

G. Whether the continued membership of the Panel Member is likely to bring discredit or disfavor on, or otherwise adversely affect the Service.

(10) All Panel Members shall give notice to LRS within thirty (30) days if: they have been cautioned, admonished, reprimanded, or disciplined by any disciplinary or grievance committee, agency or have been court sanctioned, whether they are currently under investigation concerning any allegation of professional misconduct or wrongdoing, or whether they are a defendant in any lawsuit filed by a client or former client other than as previously explained in their Application for Panel Membership or a prior Application for Renewal of Panel Membership.

(11) The participating attorney may appeal the decision of the Committee to the President of the NYSBA or to such person or three person subcommittee as may be designated by the President for that purpose; such appeal must be in writing postmarked no later than 30 days after the participating attorney has received the final decision of the Committee.

XV. AMENDMENT. The rules and procedures for the Service set forth in this Plan may be amended by majority vote of the Committee as long as any amendment is consistent with the purposes and objectives of the Service, or upon recommendation of the Executive Committee of the New York State Bar Association, subject in either case to the prior approval of the House of Delegates.