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BOARD ON PROFESSIONAL RESPONSIBILITY POLICY ON COMPENSATION OF COUNSEL FOR INDIGENT RESPONDENTS

Board Rule 19.5 provides for the compensation of counsel and payment of reasonable and necessary expenses for respondents who make the requisite showing of financial hardship. It is the policy of the Board on Professional Responsibility of the District of Columbia Court of Appeals (the "Board") that:

1. The Standards of the Board on Professional Responsibility for Determining Financial Hardship, which are attached hereto and incorporated herein (the "Board Standards"), shall apply for the purposes of determining whether a respondent is eligible to receive compensation of counsel and payment of reasonable and necessary expenses at the Board's expense.

2. Respondents applying for such financial assistance shall file an *ex parte* motion requesting a finding of financial hardship, and an affidavit in support of motion for compensation of counsel based on financial hardship (a form affidavit is available from the Office of the Executive Attorney), as set forth in ¶ 2 of the Board Standards.

3. An *ex parte* motion filed before a Specification of Charges or Petition for Negotiated Discipline is filed shall be confidential until a Specification of Charges or Petition for Negotiated Discipline is filed against the respondent. If a Specification of Charges or Petition for Negotiated Discipline is filed against the respondent, the *ex parte* motion shall not be confidential, even if it was confidential when originally filed. A confidential motion and affidavit may be provided to Bar Counsel pursuant to Board Rule 19.5(b)(3).

4. The Board, through its Chair, will review the motion and affidavit, and such motion shall be granted in those circumstances in which the Chair finds that the Board Standards are met. The Board shall serve Respondent and Bar Counsel with a copy of the order deciding Respondent's motion.

5. The payment rate for compensation of counsel will correspond to the local rate for appointed counsel in the District of Columbia under the Criminal Justice Act ("CJA"), including any subsequent changes in the local CJA rate. The payment rate for reimbursement of law clerks, paralegals and investigators will correspond to the local CJA rate for investigators, including any subsequent changes in the local CJA rate. All legal bills to be compensated under this Policy shall: (i) describe the

services rendered and the time expended on each task (reported in tenths of hours); and (ii) document any expenses incurred for which reimbursement is sought. All such bills shall be submitted to the Office of the Executive Attorney and the respondent on a monthly basis. Payment may be denied if bills are not submitted on a timely basis. Compensation under this Policy will be paid directly to counsel and not to the respondent.

6. A presumptive payment cap of $25,000.00 will apply to the fees and expenses incurred on behalf of each respondent in respect of the application that is approved. Upon written request and for good cause shown, the Board Chair may adjust the payment cap based upon consideration of all pertinent circumstances.

7. Respondents who are eligible for financial assistance are responsible for selecting their own counsel. The Office of the Executive Attorney shall maintain a list of counsel who have relevant experience and shall make that list available to any respondent who requests it. This list is not intended to be a complete list of attorneys for respondents. The fact that an attorney appears on the list does not represent any kind of Board recommendation, endorsement or evaluation of his or her qualifications or competence.

Theodore D. Frank, Chair

Dated: JUL 25 2014