

**ESSEX COUNTY BAR ASSOCIATION LAWYER REFERRAL SERVICE  
RULES AND REGULATIONS FOR MEMBERSHIP**

Revised November 21, 2019

**ARTICLE I: MISSION**

The mission of the Essex County Bar Association hereinafter, ECBA, Lawyer Referral Service, hereinafter LRS, is:

- A. To the public: To provide information and referrals to the appropriate social service agency and/or to a qualified member attorney in their geographical area.
- B. To the attorney members: To provide quality case referrals to qualified members in good standing of the ECBA and LRS on a fair and rotating basis and to take action that would improve the Service's efficiency and promote the service throughout the Essex County community.

**ARTICLE II: GOVERNANCE**

A. The ECBA LRS will be operated under the general supervision and control of the Lawyer Referral Service Committee, hereinafter the LRS Committee of the Essex County Bar Association. The LRS Committee will consist of a total of 9 members: a Chairperson and five additional members of the ECBA as selected by the President of the ECBA, the Executive Director of the ECBA, and the LRS Administrator, The Committee will include three classes of two members each and will serve two year terms. The Chairperson will be appointed from this class of six and will serve a one year term. B. The LRS Committee shall have the authority to adopt and implement policies and regulations consistent with these rules and report back to the Board of Trustees of the ECBA at least once a year regarding same. The committee shall meet at least once a year prior to the submission of the annual report to the ECBA Board of Trustees.

**ARTICLE III: CONDITIONS OF MEMBERSHIP ON THE ECBA LRS**

- A. All LRS panel members must be members in good standing of the Bar of the State of New Jersey who have been practicing for at least one full year.
- B. All LRS panel members must be members in good standing (current year's dues paid) of the Essex County Bar Association.
- C. All LRS panel members must be engaged in the active practice of law and must maintain a law office suitable for reception of clients during normal business hours, which must be located within Essex County or in a county within the State of New Jersey which is geographically adjacent to Essex County.
- D. All LRS panel members must carry professional liability insurance in an amount not less than \$100,000/\$300,000 and must have the ECBA LRS listed as a named holder of said certificate of insurance coverage. LRS members must submit proof of coverage annually to the LRS Committee in the form of a copy of the face page of the policy. LRS members will notify the LRS Committee immediately upon cancellation or any change of their insurance.

E. LRS panel members shall pay an annual registration fee as determined by the LRS Committee and the ECBA Board of Trustees. The fee structure for registration at the time of adoption of these Rules and Regulations will be as follows:

- i. \$100 for two substantive panels
- ii. \$175 for four substantive panels
- iii. \$250 for six substantive panels

F. A panel member may be removed by a majority vote of the LRS Committee if the member is no longer a member in good standing of the ECBA, is no longer covered by the required malpractice insurance or fails to abide by these Rules and Regulations and pursuant to Article IX herein.

G. Each panel member must submit an application for membership upon joining the LRS that supplies the LRS Committee with the required information and contains the member's agreement by signature to abide by the Rules and Regulations governing the LRS for the duration of his/her panel membership.

H. If the original written application for membership on the LRS is denied, the attorney has the right to come before the LRS Committee at their next scheduled meeting to present his/her qualifications for reconsideration. If this measure fails to achieve the desired membership admittance, the attorney has the right to then appeal to the ECBA Board of Trustees.

I. LRS Panel Member must inform the LRS Administrator in written form (email/fax/letter) of any changes in address, telephone number, fax number, email address or malpractice coverage.

#### **ARTICLE IV: MEMBERSHIP ON SUBSTANTIVE PANELS**

A. The LRS Committee shall establish panels consisting of types of cases or areas of practice.

B. Panel members will be limited to membership in no more than six (6) panels in any one year.

C. The member's choice of panels should reflect the types of cases he/ she presently handles, in which he/she has experience, and for which he/she can represent a client competently as required by the Rules of Professional Conduct. By selecting a specific field, the attorney certifies that he/she is competent to represent someone in that field.

D. An attorney may select a panel and receive referrals provided that one of the following provisions is met:

E. The attorney certifies that he/she has handled five (5) cases of the type selected within the last five (5) years.

F. Twenty-five percent (25%) of his/her practice has been of those types of cases and the attorney has been in practice for more than one year.

G. If an attorney cannot meet the standards as set forth above, he/she will be given the opportunity to demonstrate to the LRS Committee alternative qualifications. Other such qualifications may include special law school, graduate or post-graduate education, teaching experience, continuing legal education, past experience with a relevant company or government body, or authorship of a publication on the relevant subject area.

H. The member must certify that he/she will not accept representation or continue representation in a matter for which he/she is not qualified or competent.

I. If after the initial consultation or at any time during representation, where the panel member has not engaged co-counsel, the member determines that he/she is not qualified/competent to handle the referral, the member will refer the client back to the LRS for another referral or be paired with a more experienced panel member to act as co-counsel.

#### **ARTICLE V: REFERRALS**

A. In making the referrals of a client to a panel member, consideration will be given to geographic location, type of legal problem articulated, language needs, disability issues and any other special needs of the client.

B. The LRS Administrator will attempt to distribute panel referrals as evenly as possible among panel members taking into consideration the above requirements; a record will be kept of all referrals at all times.

C. No referrals shall be made on the basis of race, sex, age, religion, sexual orientation or national origin.

D. The client/applicant will be informed either orally or in writing of the LRS rules applicable in his or her case, including information about the first consultation fee and the services that will be rendered for such fee.

E. The time and place of the first consultation shall be arranged directly between the client/applicant and the panel member. Such consultation should be made as soon as possible after the referral from LRS.

F. Panel member will be notified by email or fax when a referral is made to him/her.

#### **ARTICLE VI: RENDERING OF SERVICES**

A. Panel members shall not charge more than \$25.00 for the first thirty minutes of consultation, which will cover the attorney-client conference and advice but not the preparation of documents. Panel members may use their own discretion in providing a free consultation. Consultation fees shall not be charged in Workers' Compensation, SSI/Disability or Plaintiffs Personal Injury referrals.

B. If the attorney agrees to undertake representation of the person referred, fee arrangements after the initial consultation will be those agreed to by the client and the attorney.

C. If after the initial consultation the panel member decides that he/she will not be able to accept the case, the client will be advised to call the LRS again to obtain another referral. An attorney who decides not to take a case may not refer the client to a partner, associate or another attorney not on the panel without express permission from LRS. The forwarding attorney shall require that the attorney to whom the matter is referred comply with all of the rules and regulations of the LRS including the rules contained herein under "Referral Fee" to the LRS. The panel attorney shall remain responsible for the fulfillment of his/her obligation as set forth in these Rules and Regulations until such time as the recipient attorney executes an agreement to be bound by the Rules and Regulations set forth herein.

D. Panel members reserve the right to decline a referral due to time constraints, or any other reasonably acceptable explanation. Panel member must instruct client to contact the LRS for another referral.

E. If a conflict of interest arises, the panel member must refer the client back to LRS for another attorney referral.

F. If the panel member deems it necessary/appropriate to engage or affiliate with co-counsel, it is permissible. He/she may choose an attorney who is not a member of the LRS. However, said co-counsel together with the panel member shall be bound by the provisions of the Rules and Regulations governing the ECBA/LRS, including but not limited to the payment of the percentage fee and the preparation of all status reports to the LRS. The LRS Administrator must be notified by the panel member in the event co-counsel is engaged.

#### **ARTICLE VII: REFERRAL FEE**

A. For and in consideration of the referral made, in recognition of the service provided by the ECBA LRS and to help defray the costs of operation and advertising for the LRS, any panel member receiving legal fees in excess of \$750.00 for the performance of legal services for a referral referred by the ECBA LRS shall agree to pay to the ECBA LRS a sum of 10% of any such legal fee over \$750.00 received for services performed for such client as a direct result of the ECBA LRS referral.

B. The percentage fee shall be based upon the cumulative charges, on the specific matter referred, incurred by the client to the panel member and the amount paid to the LRS shall be based upon the amount of attorneys' fees collected exclusive of costs and disbursements. In contingency cases the 10% payment will be made at the time the attorney disburses the fee to him/herself.

C. This referral fee shall be remitted to the ECBA LRS within thirty (30) days after receiving the legal fees from the client for services performed.

D. Referral fees not paid within thirty (30) days shall be reported to the ECBA LRS Committee for further action.

E. Referral fees not paid within sixty (60) days shall result in the removal of the panel member from the rotation until referral fees are remitted to the ECBA LRS.

F. Any client referred by the ECBA LRS will not be billed an additional amount to cover the referral fee. The combined fees and expenses billed to the client shall not exceed the total charges that would have been billed to the client if the ECBA LRS had not been involved.

G. The ECBA LRS has no responsibility whatsoever for collection of fees from clients referred through the ECBA LRS.

H. Panel members will be responsible for filling out periodic status reports on cases referred by the ECBA LRS.

I. The following substantive panels are exempt from the referral fee structure:

- i. Domestic Violence
- ii. Foreclosures
- iii. Landlord/Tenant Issues (Tenant only)
- iv. Personal Bankruptcy (Chapter 7 and 13)
- v. Small Claims Actions

J. Any fee dispute arising in connection with a case referred to a panel member by the ECBA LRS, shall be submitted to the Supreme Court Fee Arbitration Committee for resolution, and such decision shall be binding on all parties.

#### **ARTICLE VIII: ADMINISTRATION**

A. The Essex County Bar Association shall be responsible for the administration of the Lawyer Referral Service. The LRS Administrator is responsible for the day to day operations of the service. Assistance will be provided as necessary by other full-time and part-time ECBA staff members and/or college/law school interns. The LRS is supervised by the Executive Director of the Essex County Bar Association.

B. The Association's LRS Administrator shall send to each panel member case status reports that shall include the following:

- i. A listing of all referrals made during a specified period of time, including client name, phone number (if provided) and type of referral
- ii. Follow-up questions concerning the status of each case referred.

C. Case status reports must be completed and returned to the LRS by all panel members within 30 days of receipt of same. If any panel member does not or refuses to return the completed forms to the Association, the matter shall be referred to the LRS Committee for action and possible suspension from the LRS until the attorney complies with this requirement.

D. The LRS will provide panel members with any and all statistical information concerning the service at his/her request for viewing at ECBA headquarters or electronically.

E. Periodic client follow-up questionnaires may be distributed by the ECBA LRS.

F. The LRS as it is financially able to do so, is to take actions that would improve its efficiency and promote participation through advertising and community education programs. All proceeds from the program will be reinvested in the program.

#### **ARTICLE IX: REVIEW AND DISCIPLINE**

A. The ECBA LRS Committee will have the authority to examine a prospective panel member's application to determine the attorney's continuing eligibility and to adjust panel membership when necessary.

B. The ECBA LRS Committee may deny panel membership or remove or suspend a panel member at any time for good cause, as determined by a majority of the Committee, which includes but is not limited to:

- i. Institution of criminal charges involving theft, embezzlement, or fraudulent appropriation of property;
- ii. Violation of the Rules of Professional Conduct;
- iii. Suspension, disbarment, or resignation from the practice of law;
- iv. If a panel member has one or more ethics grievances pending;
- v. If panel member has two or more fee arbitrations pending;
- vi. Failure to obtain or maintain the required legal malpractice insurance;
- vii. Falsification of data required by the ECBA LRS;
- viii. Failure to pay the annual registration fee to the ECBA LRS or to pay the annual dues fee to the ECBA or otherwise comply with the ECBA LRS Rules and Regulations as set forth herein.

C. If the Committee fails to approve a prospective panel member after consideration of his/her application and disciplinary record or moves to remove or suspend a panel member, the attorney concerned will be notified in writing of the intention and reasons therefore, and will be provided the opportunity to make a written or oral statement to the Committee.

D. An attorney may withdraw from a panel or the ECBA LRS at any time upon written notice to the LRS, but he/she shall not thereby be relieved of the duty to dispose of, in accordance with the Rules of Civil and Criminal Procedure, any pending cases or any obligation incurred during membership on the ECBA LRS.

E. Complaints from clients concerning a panel member will be referred to a member of the ECBA LRS Committee for initial review. If the committee member determines that there is a basis for the complaint, then a hearing will be held before a majority of the ECBA LRS Committee either in person or based upon a written submission. If a complaint by a client is identified as a violation of the New Jersey Commission on Professionalism in the Law's Principles of Professionalism it will be referred to the ECBA's Committee on Professionalism for review. If a complaint by a client is identified as a possible ethics and/or fee violation, it will be promptly referred to the appropriate Supreme Court Ethics and/or Fee Arbitration Committee.

F. The Committee shall review all instances of non-payment of referral fees by panel members, reserve the right to suspend and/or terminate any panel member who is delinquent for more than sixty (60) days and take all appropriate action to collect the fees owed.

G. The Executive Director of the ECBA, upon notification to the ECBA LRS Committee Chair, shall have the authority to temporarily suspend any panel member who:

- i. Has not demonstrated that they carry the required legal malpractice insurance;
- ii. Has not paid their annual registration fee to the ECBA LRS;
- iii. Is more than sixty (60) days delinquent in paying their annual dues to the ECBA.

#### **ARTICLE X: AMENDMENTS TO RULES AND REGULATIONS**

Amendment of these By-Laws requires approval by a two-thirds affirmative vote of the ECBA LRS Committee and further approval by a majority of the ECBA Board of Trustees.