



## Tennessee State Employees Association Lawyer Referral and Information Service Plan

### **I. PURPOSE**

- 1.1 The purposes of the Lawyer Referral and Information Service (the “Service) are:
  - (a) To make legal services readily available to Tennessee State Employees Association (“TSEA”) members by providing a way in which appropriate cases may be referred to a qualified lawyer on a basis which considers geographical convenience, and type of legal problem presented;
  - (b) To provide information about panel member attorneys, as provided by the panel members;
  - (c) To provide an initial determination of whether legal services are necessary or advisable;

### **II. PLAN OF ORGANIZATION**

- 2.1 The Service shall be sponsored by TSEA under the direction of that organization’s Board of Directors and the TSEA Service Administrator, (the “Administrator”). The Service shall be operated out of an office located in Nashville, Tennessee by staff persons employed by TSEA.
- 2.2 The Service shall be operated exclusively under the supervision of TSEA and the Rules of the Tennessee Supreme Court, including the Code of Professional Responsibility.

### **III. THE TSEA SERVICE ADMINISTRATOR**

- 3.1 The Administrator shall be an attorney licensed to practice law in the state of Tennessee and in good standing with the Board of Professional Responsibility.
- 3.2 The Administrator shall from time to time review this Plan and the operation of the Service and shall recommend to the TSEA Board of Directors such revisions, as it shall deem advisable.
- 3.3 The Administrator shall have the further responsibility of adopting such forms, procedures and rules of administration for the Service, consistent with this Plan, as the Administrator shall deem appropriate to carry out the purposes above as set forth.
- 3.4 TSEA shall pay all expenses of the operation of the Service, including the charges of outside agencies or other persons for services or facilities provided to the Service, in such amounts as the Administrator determines to be reasonable and necessary, subject to such budget limitations approved by the TSEA Board of Directors. TSEA may maintain and

pay for liability insurance coverage insuring all persons administering the Service within limits it shall determine.

- 3.5 The Administrator shall be directly responsible to the TSEA Executive Director.

#### **IV. THE LAWYER PANEL**

- 4.1 The Administrator shall organize one panel of lawyers to whom client referrals shall be made. The Administrator may designate fields or types of legal work in which the members of the Lawyer Panel may designate that they will, or will not, accept referrals.
- 4.2 Any private practice active attorney in good standing with the Tennessee Board of Professional Responsibility may qualify as a registered member of the Lawyer Panel. Attorneys in practice for three years or more will be asked to voluntarily become “mentors” in areas of law, which they specify, for newly licensed attorneys who join the Service. Mentors should be available for limited consultation when called upon by specified panel members.
- 4.3 In submitting an application for membership on the panel, the applicant may designate those fields or types of legal work chosen by the committee in which the applicant will or will not accept referrals. After registration, a panel member may revise such designation from time to time by written notice to the Service. A panel member shall not be permitted to specify an unwillingness to accept referrals according to the value of the property or the amount of claim involved.
- 4.4 Before accepting the registration of any applicant, the Service may require such information and certifications as it deems necessary to show the applicant is a licensed attorney in good standing with the Tennessee Board of Professional Responsibility, qualification to practice, and, that adherence to recognized ethical standards of the profession. The Administrator may conduct further investigations and require further information bearing upon the responsibility, capability, character and integrity of any applicant. The Administrator may also require such information as it deems necessary in continuing the registration of any registered lawyer.
- 4.5 Any applicant may be denied registration and any registered lawyer may be withdrawn from registration if the lawyer has:
- (a) Willfully failed to pay any fee, render any report, or otherwise abide by the rules of the Service.
  - (b) Signed any application or other certification or report to the Service which shall be found to be untrue in any material respect.
  - (c) Ceased to be a private practice active attorney in good standing with the Tennessee Board of Professional Responsibility.

Such action may be taken in the sole discretion of the Administrator, after a hearing on reasonable notice and an opportunity to be heard, and subject to the right of appeal to the TSEA Board of Directors. Notwithstanding the foregoing, if at any time, the Administrator receives notice or information giving the Administrator reasonable grounds to believe that a registered lawyer does not meet the required standards of

responsibility, capability, character and integrity, the Administrator may, in his sole discretion, suspend the attorney, only for such reasonable time as may be necessary, pending a hearing.

In that the lawyer has failed to pay the dues to the Service, the Administrator may place the lawyer on an inactive status with the Service. Such lawyer will remain on an inactive status until the attorney is no longer in arrears in payment of the dues to the Service.

- 4.6 It shall be a condition to membership on the Lawyer Panel, and each lawyer, in filing an application for registration as a member, agrees:
- (a) Any charge for further service will be agreed upon with the client.
  - (b) To carry and continue to carry, professional liability insurance in a form and amount as may be determined by the Administrator.
  - (c) All panel members are required to have completed at least 15 hours of continuing legal education in the twelve-month period prior to application for or renewal of membership. The continuing legal education hours may be in any area of the law. Panel members will have a 90-day grace period to complete the 15 hours if not completed by their membership renewal date. A brief written plan for completion of the remaining CLE hours should accompany the renewal application. Panel members completing more than the required hours in one membership year may carry over up to 15 hours to meet the requirement for the following membership year. Newly licensed attorneys who join the Service will be exempt from the CLE requirement for the first 12 months of practice.
  - (d) All applicants for the subject matter panel membership are required to document relevant experience prior to panel admission. Relevant experience may be demonstrated by either:
    - (1) Documented evidence that within the specified time period, the applicant has personally handled to conclusion the set number of cases in the subject area.
    - (2) Documented evidence that within the specified time period, the applicant has completed a minimum of 12 CLE credits approved by the Tennessee Commission on Continuing Legal Education in the subject area.
  - (e) To grant clients referred by the Service an appointment as soon as practicable after a request is made.
  - (f) That information contained in a lawyer's application may be furnished, to the extent the Administrator sees fit, to applicants who seek assistance from the Service.
  - (g) To abide by all of the rules of the Service and will in no event hold, or claim to hold, TSEA or any of its directors, officers, members or employees liable in connection with the operation of the Service.

- 4.7 Membership on the Lawyer Panel shall continue until the member voluntarily withdraws, ceases to be qualified, or until affirmative action is taken by the Administrator to terminate the registration after notice and an opportunity to be heard. A member having knowledge of any fact, which would terminate eligibility, shall so advise the Service.
- 4.8 Panel members and support staff within their offices may regularly come in contact with information regarding Service referrals, such as fax, emails, and/or mail notifications. The information contained within these correspondences should be regarded as highly confidential, and is intended solely for the individual or entity to which it is addressed. Any review, retransmission, dissemination or other use of or taking action in reliance upon this information by persons or entities other than the intended recipient is prohibited.

## **V. COMPLAINTS AGAINST PANEL MEMBERS**

- 5.1 Any complaint received by the TSEA or the Service against an attorney participating in the Service will be reviewed by the Administrator.
- (a) A “complaint” is defined as any pleading letter, telephone call, electronic communication, any other form of communication, or information received by TSEA or the Service that expresses dissatisfaction with an attorney’s professional services, advice, or other actions associated with the practice of law.
- 5.2 Upon receipt of a complaint, the panel member will be notified in writing of the complaint and will have fifteen (15) days to respond in writing to the complaint.
- 5.3 The Administrator, may, in his sole and absolute discretion and at any time after receipt of a complaint, temporarily suspend the panel member from receipt of new referrals. Upon review of the complaint and any response from the panel member, the Administrator, may in his sole and absolute discretion, continue the suspension of a panel member or permanently remove them from the Service.
- 5.4 The decisions of the Administrator are final and not subject to appeal.
- 5.5 In the event of the suspension or removal of a panel member from the Service, the annual membership fee will be refunded on a prorated basis for the year.

## **VI. FEES**

- 6.1 Each member of the Lawyer Panel will pay to TSEA a nonrefundable fee of \$500 for the first year of membership and a renewal fee thereafter of \$250 per year. Each panel member shall renew their membership on or before their anniversary date of joining each year. Additional annual membership fees are as follows: \$35.00 for membership on the Domestic Relations Panel, \$25.00 for membership on the Criminal Misdemeanor Panel, \$25.00 for membership on the Criminal Felony Panel, \$25.00 for membership on the Personal Injury Panel and \$25.00 for membership on the Workers' Compensation Panel. Fees for the first year will be tendered with the lawyer’s application, which shall be refunded if the application is not approved.

## VII. REFERRAL SERVICE PROCEDURES

- 7.1 Each client-applicant shall be interviewed by the Administrator or some other designated person (the "Interviewer"). The Service shall be organized so that the interview shall take place at the TSEA office or by telephone.
- (a) Each applicant shall first communicate with the Service office. Whenever an application or inquiry for the appointment of a lawyer is received by the Service, the Interviewer shall attempt to find out whether the applicant has a lawyer. If the applicant has a lawyer, the Interviewer shall direct the applicant to talk with that lawyer. If, however, the applicant states that the applicant does not want to consult that lawyer, the applicant shall be referred to a lawyer according to the Service's usual procedure unless this would violate the provisions of Section 10.1.
  - (b) In addition, the Interviewer shall find out whether the applicant has a problem appropriate for referral. If so, and the applicant meets the other requirements of the Service, the applicant shall be referred to a lawyer on the panel who has indicated willingness to accept referrals in cases in the client-applicant's geographic area and involving the field or type of legal work which the client-applicant's inquiry appears to involve.
  - (c) Only the actual client may receive the referral, except when:
    - (1) The caller has power of attorney for the actual client.
    - (2) The client is a minor child.
    - (3) The caller is acting as an interpreter for the actual client.
    - (4) The client is incarcerated and cannot contact the Service.
  - (d) If the Interviewer determines that a referral is appropriate, the client will then be given the referred lawyer's contact information.
  - (e) Before or during the interview, the applicant shall be informed, either orally or in writing, of the Service's rules applicable to the case. This includes information about the purpose of the first referral consultation, the length of time deemed appropriate for the consultation, and any other information deemed appropriate for the consultation.
- 7.2 No prospective client shall be referred to more than one member of the panel unless the lawyer to whom the client is referred declines to handle the matter on the initial consultation. A client may be referred to a second attorney for consultation if the client is dissatisfied with the initial referral. A final third attorney may be referred if the client is still dissatisfied.
- 7.3 The referred lawyer shall arrange the time and place of the consultation with the client-applicant, to be held as soon as possible after the initial interview, whether it be by telephone or in person.
- 7.4 If matters other than those contemplated in the interview develop during the consultation with the lawyer, the referral lawyer may make such arrangements for handling these matters as may be appropriate and agreeable with the applicant.

- 7.5 The referral lawyer may make such arrangements with the applicant for the performance of future legal services in the matter referred as are consistent with recognized principles of legal ethics.
- 7.6 No specific minimum or maximum time limit shall be set by the Service for the length of the initial consultation with a lawyer, but it is contemplated that this will involve one-half hour to one hour, and shall include only a preliminary consultation for all but very simple matters, and shall not include the drafting of correspondence or legal instruments or the performance of services outside the lawyer's own office.
- 7.7 The Administrator or designee shall prepare a roster of all lawyers on the Lawyer Panel and shall adopt procedures designed to insure that referrals are made in rotation in accordance with these rules, and without favoritism. The following procedures shall govern referrals:
- (a) The initial members of the Lawyer Panel shall be arranged alphabetically. Lawyers added to the panel after preparation of the initial roster shall be added to the top of the roster, in the order in which their applications are approved.
  - (b) Upon determining that a client-applicant should be referred to a lawyer, the Interviewer shall start at the top of the roster of Panel Lawyers. If the Interviewer has determined the nature of the client-applicant's legal problem, the Interviewer shall proceed down the roster in order and assign the first lawyer whose file reflects that the lawyer will accept referrals in that field or type of legal work and in the client-applicant's geographic area. If the Interviewer has not determined the nature of the client-applicant's legal problem, the lawyer at the top of the roster will be assigned first. If the Interviewer is not able to assign the lawyer due to conflicts, qualifications, or other valid reasons, that lawyer shall be passed over and the procedure set forth above shall be followed until a referral is made. A lawyer whose name is passed over pursuant to the procedures outlined in this paragraph shall remain in place on the roster, and not be rotated to the bottom of the roster.
  - (c) If the Interviewer assigns a lawyer who accepts the referral, the lawyer shall be rotated to the bottom of the roster. If the lawyer who is assigned declines the referral, that lawyer shall be rotated to the bottom of the roster except under the following circumstances:
    - (1) The lawyer considers that there is an apparent conflict of interest in representing the client-applicant in the matter for which the referral has been requested; or
    - (2) The lawyer considers that the matter for which the referral has been requested is not within the field or type of legal work in which the lawyer has agreed to accept referrals; or
    - (3) The lawyer declines representation on the basis of not being qualified to render the services, which will be required to represent the client-applicant in the matter for which the referral has been requested.

If the lawyer initially accepts the referral, but determines, prior to or at the time of the initial consultation with the client-applicant, that any of the circumstances stated in subparagraphs (1), (2), or (3) are present, and the lawyer thereupon refers the client back to the Service, the lawyer shall not be deemed to have declined the referral for purposes of rotation to the bottom of the roster. Upon such referral of the client-applicant back to the Service, or if the client-applicant is not referred to the lawyer, the referral procedures set forth in subparagraph (b) of Section 7.7 shall be followed until a referral is made.

- 7.8 If a lawyer to whom a client-applicant has been referred concludes that special services are required, and the lawyer does not feel qualified to render these services, the lawyer may associate with or refer the client to a qualified lawyer. In any case, the lawyer shall notify the Service of the action taken.
- 7.9 The Service should make regular and consistent attempts to follow up the operation of the Referral Service in a reasonable number of cases in order to obtain information that will enable the Service to find out whether appointments have been kept, whether the referred client was satisfied with the lawyer's handling of the case, whether the fee was within the client's means and similar information. Information obtained in such follow-up procedures should be used to make such alterations in the operation of the Service as may appear desirable to the Administrator.

## **VIII. RECORDS AND REPORTS**

- 8.1 The maintenance of records adequate to reflect the operation of the Service is essential and the responsibility of the Administrator. The Service shall establish such a record system. The records shall show at least the following information for each applicant and each lawyer.
- (a) Applicants interviewed who are not referred to a lawyer and in each such case the reason for non-referral;
  - (b) Applicants referred to a lawyer and, in each such case:
    - (1) Nature of legal question involved;
    - (2) Lawyer to whom referred;
    - (3) Total amount of fee charged;
    - (4) Disposition of case; and,
    - (5) Client's comment on fee, satisfaction, etc.
- 8.2 The Administrator shall adopt the necessary forms and records to efficiently operate the Service. Such forms shall include the following:
- (1) Attorney's application form;
  - (2) Client's reference and attorney's preliminary report;
  - (3) Client's comment form;
  - (4) Referrals and receipts record;
  - (5) Monthly referral record form.

- 8.3 Reports from panel members on referrals are due in the office of the Service within two weeks of the referral. Such report shall contain information regarding initial consultations, further services rendered and amount of agreed-upon fee. Failure to comply within four weeks shall be cause for the Administrator to remove the attorney from the rotation until such time as reports and payments shall have been made current.

## **IX. CONFIDENTIALITY GUIDELINES**

- 9.1 In certain TSEA Lawyer Referral cases, the parties to a settlement agreement may wish to include a confidentiality clause in the agreement. In order to clarify the policies regarding confidential settlements involving the Service, and in order to inform panel attorneys of how confidential settlements are handled, the Service has established the following policy:
- (a) If the parties to a settlement agreement wish to keep the terms of the settlement agreement confidential, TSEA will keep the terms of the settlement agreement confidential in accordance with the wishes of the parties. In most cases, there will be no reason to supply the Service with the settlement agreement itself. However, the Service is entitled to know the outcome of any representation.
  - (b) In any case in which a Service attorney contemplates entering into a confidential settlement agreement, the attorney must inform the Administrator as quickly as possible that the settlement will, or may, be confidential. The Administrator will disclose the financial terms of the settlement agreement only to the TSEA Executive Director and the Board of Directors, if necessary, or as otherwise required by law, upon notice to the parties to the agreement.

## **X. REFUSAL OF SERVICE**

- 10.1 An applicant shall not be referred to any lawyer if the applicant had previously engaged the services of a lawyer on the same matter concerning which he now desires to be referred unless the lawyer-client relationship has been properly terminated.

## **XI. PUBLICITY**

- 11.1 The Administrator shall at all times maintain an adequate publicity program. Publicity and releases will take any form not inconsistent with recognized principles of legal ethics and standards of publicizing Lawyer Referral and Information Services.

## **XII. AMENDMENT AND REPEAL**

- 12.1 This Plan may be amended or the Plan may be repealed and terminated by the TSEA Board of Directors.