

**POLICIES AND PROCEDURES OF THE SACRAMENTO
COUNTY BAR ASSOCIATION’S INDIGENT DEFENSE
PANEL COMMITTEE AND THE INDIGENT DEFENSE
APPELLATE COMMITTEE**

Introduction:

1. The Sacramento County Bar Association's commitment to the legal profession and community is to enhance the system of justice, the lawyers who serve it, and the community served by it. It is a goal of the Sacramento County Bar Association (hereafter SCBA) to maintain a panel of attorneys who are available and well qualified to provide high quality, dedicated, effective, efficient legal representation to those individuals financially unable to employ counsel in criminal and juvenile delinquency cases, where the Office of the Public Defender of Sacramento County is unable to do so and Conflict Criminal Defenders (hereafter CCD) has been appointed by the court. Pursuant to the existing Memorandum of Understanding with the County of Sacramento (hereafter MOU) the SCBA has agreed to “recruit, evaluate, classify and maintain a panel of qualified attorneys that can be assigned to Conflict Criminal Defender cases.” This panel is the Indigent Defense Panel (hereafter IDP). The SCBA has established the Indigent Defense Panel Committee (hereafter Committee) to manage its commitments defined by the MOU. Assignment of cases is within the sole discretion of CCD and not the IDP or the SCBA. CCD has no obligation to assign a specific number of cases, or any case(s) to an attorney on the lists of attorneys eligible to receive cases from CCD. The level at which an attorney is classified defines the highest level at which an attorney may be assigned cases by the CCD. An attorney may also be assigned cases at a lower level or no cases at all.

The Indigent Defense Appellate Committee (hereafter IDAC) shall serve as the final appellate body reviewing Claim reductions and/or fee disputes between CCD and IDP attorneys, as well as decisions by the Committee or its subcommittees as described herein.

Committee’s Purpose:

1. Develop, implement and amend as necessary policies and procedures for the IDP that are consistent with the goals of the SCBA and the obligations imposed by the MOU.
2. Maintain appropriate fee schedules to fund the operation of the IDP.
3. Develop, implement and amend as necessary the procedures for the admission and classification of qualified attorneys to the IDP.
4. Develop, implement and amend as necessary procedures for complaint management and discipline, including the removal of attorneys from the IDP.

5. Work with Criminal Conflict Defenders (hereafter CCD) to provide continuing education of attorneys of the IDP.
6. Develop, implement and amend as necessary any policies and procedures required to comply with the MOU or that are otherwise necessary to the continued operation of the IDP consistent with its purpose of maintaining a panel of attorneys well qualified to provide high quality, effective, efficient representation.

I. Committee and Subcommittee Composition

Section 7.6 of the SCBA bylaws provides:

IDP Committee The President [of the SCBA] with the consent and advice of the Board shall appoint an IDP Committee comprising a chair and no less than eight and no more than twelve members. Committee members shall serve for three year terms, but may serve multiple terms. *Committee procedures and operations shall be governed by the policies and procedures of the committee.*

Consistent with this section of the SCBA bylaws, the Committee Composition shall be as follows:

1. The Committee shall be composed of the Chair and twelve (12) additional members appointed as described above.
2. Each year in November the Chair of the Committee shall submit to the President a List of candidates to serve on the Committee the following year, comprised of County Bar Members who are interested in serving. This List should contain a sufficient number of IDP attorneys to allow the President to satisfy the requirements Listed below.
3. At least seven of the Committee members shall be IDP attorneys.
4. One IDP attorney Committee member shall be designated Vice Chair, to conduct meetings and other Committee business in the place of the Chair when the Chair is unavailable to do so.
5. From time to time; and, as needed, two or more members may be appointed who is also available for employment by the Committee for such special projects such as reclassification or application review.
6. If a Committee member terminates his/her membership (before the end of his/her term), the successor Committee member shall begin a new three (3) year term.
7. To provide better continuity, the President or the IDP Chair if s/he so designates may, at his/her discretion, extend one or more expiring Committee memberships as needed.
8. There are two standing subcommittees of the Committee: the Qualifications Subcommittee and the Peer Review Subcommittee.
 - a. The Chair of the Committee may designate the chair (or co-chairs) of the subcommittees, or leave it to each subcommittee to select a chair or co-chairs.

- b. As needed, the Committee may establish additional subcommittees, either as standing or *ad hoc* committees to address specific issues.

II. Removal of a Committee Member or a Subcommittee Member

1. A Committee member shall be removed from office, if he/she misses more than four (4) regularly scheduled monthly meetings per year and a majority of the remaining Committee members concur;
2. A Committee member or Subcommittee member shall be removed, if he/she is no longer qualified to serve as an attorney in California or violates the Policies and Procedures set forth herein; or,
3. A Committee member or Subcommittee member shall be removed if he/she divulges to third parties confidential information learned as a member of the Committee or a Subcommittee.

III. Meetings

1. The Committee shall meet monthly. Minutes of said meetings shall be kept by the Executive Assistant.
2. The Committee shall, at the beginning of each meeting approve (or amend and approve) the minutes of the prior meeting. These approved minutes shall then be distributed by email to all attorneys on the IDP lists.
3. The IDP Chair shall conduct the meeting, or, in his/her absence the Vice Chair shall conduct the meeting. The Chair (or in his/her absence only, the Vice Chair) shall not vote on any issue unless there is a tie vote on that issue, in which case the Chair shall cast a vote to break the tie.
4. A quorum is seven Committee members, including the Chair, or a simple majority of existing members, including the Chair, if there are vacancies on the Committee. Once a quorum is present at a meeting, all issues brought to the Committee for a vote at that meeting may be decided by a majority vote of the remaining members even if some members constituting the quorum leave the meeting prior to the vote being taken.
5. Proxy votes are not allowed. Absentee ballots are discouraged, but allowed if the Committee member makes a telephonic appearance.
6. In situations where an immediate vote is required, prior to the next regularly scheduled meeting, the Chair may in his/her discretion conduct a telephone or email vote.
7. The Committee shall meet in executive session (comprised of Committee members, plus persons specifically asked to remain), whenever sensitive issues (discipline, policy questions, etc.) are being discussed.
8. Members of the Committee shall make all decisions regarding applications to the IDP and maintaining the IDP Attorney Lists.
9. It is the intent of the Committee that the Policies and Procedures remain current, immediately incorporating any and all future change. To that end, the following

procedure shall be followed: With the passage of any motion that changes these Policies and Procedures, the Committee member making the motion shall, if the motion is passed, reduce it to writing and give a copy to the Executive Assistant. The Executive Assistant shall incorporate that language into both the minutes of the meeting during which the motion was passed and these Policies and Procedures.

10. Where practical, a member should consider submitting and distributing in writing a proposed motion to change these Policies and Procedures prior to the meeting at which the motion is made.
11. The Chair of the IDP shall instruct the Executive Assistant as to the placement of the new Policy or Procedure within this document.
12. If a Policy or Procedure is passed (or amended) in Executive Session, it shall nevertheless be included in the general minutes for approval at the next meeting unless, for good cause, the Chair instructs the Executive Assistant that this not be done.

IV. Management of the IDP

1. All applications to the IDP shall be submitted to the Executive Assistant, on the approved Application form, which shall clearly state what classification the applicant is seeking. If the attorney is seeking a waiver of certain requirements for the classification sought, the reasons therefore shall be clearly stated on the application. NO APPLICATION WILL BE ACCEPTED FROM AN ATTORNEY WHO OWES MONEY TO THE IDP AND/OR THE SCBA.
2. Applicants to the IDP shall be charged a non refundable application fee as described below. This fee shall not be collected until such time as the application is actually accepted.
3. At the time an application is accepted, all applicants to the IDP shall be sent a “welcome letter” delineating what is required to complete their application. An applicant must respond to this letter within thirty (30) days or the application process must be begun anew.
4. An applicant to the IDP may be denied admission to the IDP. The IDP application shall clearly inform the applicant of this fact as well as the fact that the application fee is non-refundable whether or not the applicant is admitted to the IDP. The application shall also inform the applicant that all case assignments to IDP attorneys are within the sole discretion of CCD.
5. All requests by IDP attorneys for reclassification shall be submitted to the Executive Assistant, on the approved Application for Reclassification form. If the attorney is seeking a waiver of certain requirements for the reclassification sought, the reasons therefore shall be clearly stated on the application. There shall be no fee for applications for reclassification unless a waiver of the trial requirements for the level being applied for is sought. In cases where such a waiver is sought, the fee shall be the same as the fee for an initial application to the IDP, unless the Chair waives this fee for good cause (such as a critical need for attorneys at the level for which the waiver is sought.) Only attorneys who are

- in good standing on the Regular IDP Attorney List (as defined below) may apply for reclassification.
6. Applications for admission to the IDP and reclassification requests shall be submitted (when complete; and, in the case of applications for admission when the application fee is received), after processing by the Executive Assistant to the Committee's Qualifications Subcommittee for approval or denial, in accordance with the Policies and Procedures of that Subcommittee set forth below.
 7. A representative of the Qualifications Subcommittee shall present the recommendation of that Subcommittee to the Committee. Applicants shall be admitted, or not admitted by a majority vote of those Committee members present at the time the vote is taken. The classification level of admitted applicants shall be set by a majority vote of those Committee members present at the time the vote is taken. This vote shall be final on the decision to admit or not to admit the applicant.
 8. An applicant for who is admitted to the IDP may ask to address the Committee if dissatisfied with its decision as to classification level, and a new vote shall be taken after the attorney's presentation. The classification decision after this second vote is final.
 9. The Committee shall make all decisions on admission, classification and reclassification based on the goal of the SCBA to maintain a panel of attorneys well qualified to provide quality, effective representations to indigents in criminal cases.
 10. An IDP attorney on the Regular IDP Attorney List may ask to address the Committee if dissatisfied with its decision on a request for reclassification, and a new vote shall be taken after said presentation.
 11. If an attorney's request for reconsideration under the preceding subsection is denied by the Committee, the attorney may appeal to the Indigent Defense Appellate Committee (hereafter IDAC).
 12. The Policies and Procedures for admission and reclassification are more fully described in Section XII below.
 13. At any time, any IDP attorney may request a classification lower than the attorney's current classification, by contacting the IDP Chair. This reclassification request is not subject to vote by the Committee or the Qualifications Subcommittee. The attorney shall provide the Chair and CCD with a plan for currently assigned cases, which may include delay of the request until current cases have been handled. The plan must be approved by CCD
 14. Each applicant for admission to the IDP and all attorneys applying for reclassification shall sign a statement that they have read and agree to abide by these Policies and Procedures.
 15. Applications will only be accepted on an as needed basis for the different classification levels. The IDP Committee shall determine which levels require additional attorneys. If additional attorneys are not required at a given level, the Executive Assistant will be instructed to not accept applications for that level.

V. Attorney Withdrawal from the IDP

1. An IDP attorney may withdraw from the IDP by giving five (5) days' written notice to the Committee, addressed to the Executive Assistant at SCBA office.
2. Withdrawal from the IDP in no way relieves the attorney from his/her responsibilities for cases accepted by the attorney prior to his/her withdrawal, unless for good cause, other arrangements are made with CCD.
16. Withdrawal from the IDP does not affect the status any fees that are owed the IDP at the time of withdrawal.

VI. The IDP Attorney Lists

1. Attorneys of the IDP are NOT employees of the County of Sacramento, the SCBA or the IDP. Being on the IDP allows attorneys to be independent contractors, who pursuant to the MOU, agree to accept cases from CCD where the Office of the Public Defender of Sacramento County is unable to provide representation.
2. All applicants admitted to the IDP shall first be admitted to the Provisional IDP Attorney List.
 - a. An attorney will ordinarily be on the Provisional IDP Attorney List for a period of one year. This can be extended for an additional two periods of up to six months each upon a vote of the Committee and with the agreement of the attorney.
 - i. For attorneys placed on the provisional list prior to June 1st, 2010, the one year provisional list period shall commence after the attorneys have completed required CCD training and filed proof of insurance with the Executive Assistant. However, failure to complete the CCD orientation within a reasonable amount of time thereafter is grounds for removal from the IDP. A reasonable period of time is presumptively within 30 days.
 - ii. For attorneys placed on the provisional list on or after June 1st, 2010, attorneys will be placed on the provisional list for purposes of being available to be assigned cases by CCD after the attorneys have completed required CCD training, filed proof of insurance with the Executive Assistant and completed the required CCD orientation. Said orientation must be completed within a reasonable period of time after an attorney has completed training and filed proof of insurance to the Executive Assistant. A reasonable period of time is presumptively within 30 days. However, the one year period of time that an attorney ordinarily is active on the Provisional List does not commence until the attorney accepts his or her first case from CCD.
 - b. After the above defined period of time, if not terminated earlier the Provisional attorney shall be dropped from the IDP unless the Committee, after a majority vote of those present after a quorum has

- been established, determines to place the attorney on the Regular IDP Attorney List.
- c. An attorney on the Provisional IDP List may be removed from the IDP at any time upon a majority vote of those present after a quorum has been established of either the Committee OR the Peer Review Subcommittee.
 - d. An attorney on the Provisional IDP List may not request a hearing by the Peer Review Subcommittee prior to removal from the IDP.
 - e. The decision to remove an attorney from the Provisional IDP List may be appealed to the IDAC. The IDAC decision is final. However, if the one year time period that a Provisional attorney can be on the Provisional IDP attorney list has passed before the IDAC hearing can be held, there shall be no IDAC hearing.
 - f. After the one year Provisional List term has begun, each Provisional Attorney shall be added to the Committee agenda ten months later for consideration of whether to place the attorney on the Regular IDP List
 - g. To facilitate the preparation of future agendas and feedback from CCD, the Executive Assistant shall maintain a calendar and/or data base showing when new Provisional Attorneys are scheduled for this future consideration.
 - h. This calendar and/or database described in (g) above shall be updated by the Executive Assistant whenever she is notified by CCD that an attorney new to the IDP has accepted his or her first case to reflect the future calendar date of each newly admitted Provisional Attorney.
 - i. A copy of the updated calendar and/or data base shall be transmitted electronically to CCD, the Chair of the IDP, the Chair of the Qualification Subcommittee and any persons who are responsible for application review after each such update.
 - j. The decision whether or not to place the attorney on the Regular IDP List shall be made by the Committee, after a majority vote of those present after a quorum has been established. Input will be provided by CCD and considered by the Committee. This Committee decision is final.
 - k. A decision whether to place an attorney on the Regular IDP List is a decision regarding application. Therefore, there is no appeal to the IDAC if a Provisional Attorney is not placed on the Regular IDP List.
 - l. The fact that an attorney is no longer on the IDP List, as a result of having been terminated or dropped from the Provisional IDP List in no way relieves the attorney of his/her responsibilities for cases accepted by the attorney prior to this having occurred unless for good cause, other arrangements are made with CCD.
3. The Regular IDP List consists of attorneys who have been voted onto that list by the Committee after a one year period on the Provisional List, as defined in 2a above (after July 2007) or one year period of Probation (imposed during the months between July 2006 and July 2007). Attorneys who applied before July 2006 are also on the Regular IDP Attorney List unless they were

admitted to the Panel on a probationary basis. Attorneys on the Regular IDP Attorney List may avail themselves of the Peer Review Procedures set forth below and may appeal Peer Review decisions to the IDAC. Only Regular IDP List attorneys who are in good standing on the IDP are eligible to be considered for Reclassification to a higher level.

4. Emeritus Attorneys are IDP attorneys who no longer wish to accept cases assigned by CCD, but who have an interest in remaining involved with the IDP.
 - a. Emeritus Attorneys are not eligible to receive cases from CCD.
 - b. Emeritus Attorneys, unlike other IDP attorneys, may request inactive status with the State Bar of California unless they will be engaged in the practice of law as part of their continued involvement with the IDP.
 - c. Emeritus Attorneys are not required to maintain malpractice insurance unless they will be engaged in the practice of law as part of their continued involvement with the IDP.
 - d. Emeritus Attorneys are not required to meet CCD training requirements.
 - e. Emeritus Attorneys will not be provided paid access to ClaraNet.
 - f. An Emeritus Attorney who wishes to return to active IDP status must submit a new application to the IDP.
 - g. This status is offered with the intent of honoring the service given to the IDP by the Emeritus Attorney.

VII. Fees

1. All new applicants shall be charged an application fee- (due upon submission) As of January 1, 2009; this fee is \$250 for all levels.
2. These fees shall be shown as a separate line item in the budget and shall be used to defray the costs of investigation of applicants to the IDP
3. There is no fee for requests for upgrade in classification by attorneys already on the Regular IDP List, unless a waiver of the trial requirements is sought. In cases where a waiver is sought, the fee shall be the same as the fee for an initial application to the IDP.
4. All IDP attorneys must pay fees to the IDP to remain in good standing. These fees are set by the Committee and are presently 1.5% of the gross receipts from CCD for cases assigned by CCD to the attorney.

VIII. Summary Suspension or Removal of an Attorney from the IDP

1. Notwithstanding the Peer Review proceedings described below, a Provisional IDP attorney (defined above) may be summarily removed from the IDP at any time upon a majority vote of those present after a quorum has been established of either the Committee OR the Peer Review Subcommittee.

2. A Provisional or a Regular attorney may be summarily suspended and/or be summarily removed from the IDP by the Chair of the Committee, with the concurrence of the Chair of the Peer Review Subcommittee as follows:
 - a. He/she has been suspended, disbarred, or resigned from the State Bar of California; this shall result in immediate summary suspension pending any further action of the Committee or summary removal consistent with the State Bar orders.
 - b. When IDP fees or other program fees are thirty (30) days in arrears, an attorney shall receive a warning letter from the IDP Executive Assistant. An attorney shall be summarily suspended if he/she has failed to pay IDP fees or other program fees for more than sixty (60) days after their becoming due. This suspension will not be lifted until the fees are paid in full. After ninety (90) days suspension for nonpayment of fees, the attorney shall be summarily removed from the IDP if the fees are not paid in full.
 - c. His/her Errors and Omissions liability insurance has lapsed or been cancelled and/or is not in the minimum amount of \$100,000/\$300,000; this shall result in a summary suspension, which shall result in the immediate reassignment of all existing cases by CCD. Payment will not be made by CCD for any case reassigned pursuant to this paragraph. After thirty (30) days suspension for failure to maintain insurance, the attorney shall be summarily removed from the IDP.
 - d. He/she has been convicted of a criminal charge involving moral turpitude;
 - e. He/she had made a false statement of a material fact on an Application for Admission or Application for Reclassification;
 - f. He/she has been suspended and/or removed by CCD for failure to comply with the MOU;
 - g. He/she has engaged in abusive conduct to IDP clients and/or staff; this may result in summary suspension pending the Chair's referral of the matter for to a vote of the Committee in the case of Provisional IDP attorneys or the Chair's referral of the matter for investigation by the Peer Review Subcommittee in the case of Regular IDP Attorneys.
 - h. Unlawful discrimination as defined in Section XI below.
 - i. There is cause to believe that he/she has engaged in other conduct such that summary action must be taken pending any further proceedings by the Committee (in the case of Provisional Members) or the Peer Review Subcommittee (in the case of Regular IDP attorneys) in order to protect the IDP, the attorney's clients, the public, or the attorney him/herself.

IX. Holds

There are three types of “holds”.

1. Involuntary holds: This is another term for “summary suspension”. It may be imposed by the Chair of the IDP, with the concurrence of the Chair of the Peer Review Chair or the Director of CCD where there is cause to believe that immediate action is required to protect the IDP, the attorney’s clients, the public, or the attorney him/herself. (See also CCD Policies and Procedures regarding “Case Assignment Restrictions”).
2. Voluntary holds: An attorney may voluntarily place him/herself “on hold” for new cases for a period of no more than six months. This does not relieve the attorney of responsibility for cases already accepted from CCD unless, for good cause, other arrangements are made with CCD for these cases. At the end of the six month period, the attorney must either accept new cases, or face removal from the IDP.
 - a. Attorneys on voluntary hold must remain active members in good standing of the State Bar of California;
 - b. Attorneys on voluntary hold must maintain malpractice insurance at the level required by the IDP;
 - c. Attorneys on voluntary hold must continue to pay fees that become due during the period of the hold.
 - d. When going on voluntary hold attorneys shall sign a document acknowledging they understand subsections a. through c. above.
3. De facto voluntary holds: It is the policy of the IDP that, to remain active on the IDP, each attorney shall not refuse to accept a minimum of one case every three months. A refusal to accept a new case for two consecutive three month periods shall be considered a de facto voluntary hold, unless there is good cause for the failure to accept a new case (such as a protracted out of county trial). Unless good cause exists for refusing to accept new cases, at the end of this six month period, the attorney must either accept new cases, or face removal from the IDP.

X. Reportable Events

Each IDP attorney is required to report the following in writing to the Chair of the IDP within 72 hours of the event:

1. Any arrest (other than for traffic infractions);
2. Any notification by the State Bar that a complaint is pending against the attorney, whether or not such complaint involves a case assigned by CCD.
3. Any contempt citation or any other disciplinary sanction imposed by a court, whether or not the case in which the sanction is imposed is a case assigned by CCD.
4. Any Marsden Motion that is granted, whether or not the case in which the motion is granted is a case assigned by CCD.

5. Any service of complaint regarding a lawsuit filed against the attorney by a client or former client, whether or not said lawsuit involves a case assigned by CCD.
6. The cancellation of the attorney's malpractice insurance.

Failure to report a reportable event may result in summary suspension or summary removal from the IDP. An email to the Chair is an acceptable means of written report.

XI Compliance with the MOU

To be on either the Provisional or Regular IDP list, an attorney must sign Exhibit C of the MOU with the County of Sacramento. Compliance with the MOU is monitored by both CCD and the Committee. Non compliance with the MOU is grounds for suspension, removal or other disciplinary action by the IDP and CCD. Attorneys should pay particular attention to the following:

1. All attorneys on the IDP are expected to familiarize themselves with the MOU, in its entirety and most especially Exhibit C.
2. All IDP attorneys are required to maintain a business office in Sacramento County, or pursuant to Conflict Criminal Defender Policies and Procedures provide written confirmation of a formal agreement securing suitable space for client meetings, and provide the office address or meeting space address, as well as a business telephone, business fax and email address to CCD and the SCBA IDP.
3. Both CCD and SCBA must be notified of any change of address within five days.
4. Attorneys may not meet with clients, witnesses or ancillary service providers in their homes, unless the attorney maintains a separate business office, with a separate entrance at the attorney's residence.
5. The SCBA has certified to the County of Sacramento that any services provided pursuant to this MOU shall be without discrimination based on race, color, creed, national origin, religion, sex, age, sexual orientation, physical or mental disability in accordance with Title VI of the Civil Rights Act of 1964, U.S.C. Section 2000d et seq., rules and regulations promulgated pursuant thereto including California Code of Regulations Title 9 Section 320 and 327, or as otherwise provided by state and federal law.

XII. Qualifications Subcommittee Procedures

A. Applying to the Indigent Defense Panel:

Except as provided in IV 1 above, any attorney who is a member of the State Bar of California and who meets the minimum qualifications set forth in the Indigent Defense Panel Qualifications or who wishes a waiver of said qualifications based on other equivalent experience is invited to apply to the IDP. An applicant will not necessarily be accepted to the IDP, even if he/she meets the minimum qualifications. Rather an evaluation will be done of each applicant to determine if the applicant's experience, courtroom skill, legal ability and aptitude are suitable for providing the dedicated, high quality, effective, efficient representation to accused persons who

cannot afford to retain counsel in criminal cases. The burden is on the applicant to establish suitability for being on the IDP. The most important single factor in evaluating an applicant is his or her reputation for honesty and integrity in all segments of the criminal justice community. A lawyer's word is his or her most precious asset. Without impeccable credibility, a lawyer cannot hope to successfully serve the clients entrusted by the court to the Conflict Criminal Defenders and the Indigent Defense Panel.

1. A background investigation will be done on each applicant to the IDP by the Qualifications Subcommittee (hereafter QS). The information obtained will not be shared with the applicant.
2. This investigation includes, but is not limited to surveys of and interviews with judges, attorneys, former employers and other individuals who have knowledge of the applicant's skills and abilities.
3. The applicant, as part of the application process is required to sign a release for information so that this background check may be done.
4. The QS may retain the services of an investigator in order to fully investigate the applicant's qualifications.
5. Each applicant will be interviewed by the QS, but applicants have no right to be present at QS meeting where applications are then considered. These meetings are confidential.
6. The QS reviews the submitted material and makes a recommendation to the Committee regarding whether the applicant should be admitted to the IDP, and if so at what level.
 - a. The QS shall provide the Committee with redacted reports of all investigation, unless a person giving the information has agreed that his/her identity may be disclosed to the Committee, in which case the full report as to that person, including name, shall be provided.
 - b. The Committee can decide the matter immediately after the presentation or request that the QS conduct further investigation.
7. After full investigation, the Committee renders a decision whether to admit the applicant to the IDP and, if so at what level. The Committee makes these decisions during Executive Sessions which are confidential. Applicants have no right to be present during Executive Sessions.
8. If an attorney applicant is admitted, but is dissatisfied with the Committee's decision on as to classification level, the attorney may ask to address the Committee at the next meeting that has time available on the Agenda. A new vote shall be taken (in Executive Session, convened after the attorney's presentation). The decision after this second vote is final. There is no right to address the Committee prior to a vote regarding admission to the IDP or regarding a denial of admission to the IDP.
9. The Level at which an attorney is admitted to the IDP defines the highest level case that the attorney may be assigned cases by CCD. Cases are assigned in the sole discretion of CCD which may assign cases rated at a level lower than the attorney's classification.
10. Any applicant who is rejected may reapply, but no sooner than one year after the full Committee voted to deny admittance.

11. Although an attorney applicant may meet the minimum criteria for admission to the IDP, if the information received causes the Committee to believe that an individual attorney is not suitable for the type of practice that the IDP entails, the Committee has the right to deny admission.
12. Although an attorney applicant may meet the minimum requirements for a particular level if the information received causes the IDP Committee to believe that an individual attorney should be admitted, but classified at a lower level than the attorney requests, the Committee has the right to admit the attorney at a level lower than that being requested. Although an attorney applicant may not meet the minimum requirements for a particular level the Committee may, based on other qualifications classify that person as a higher level. No attorney shall be classed at a level higher than the level requested by the attorney.
13. The following shall apply to all QS investigations. All investigations done and all decisions made by the QS and the Committee are confidential.
 - a. No member of the QS or the Committee shall disclose the results of any applicant investigation to any party outside of the Committee, except to members of the QS, members of the PRS, the Executive Director of the CCD or the Deputy Director of the CCD as required to perform IDP business, unless directed to do so by the Chair of the Committee for good cause.
 - b. Applicants are welcome to cause information to be submitted by third parties on their behalf. However, any such information solicited by an applicant must be submitted directly by the person giving the information to the Executive Assistant of the IDP and shall not be delivered by the applicant.
 - c. It is critical to the evaluation process that judges, attorneys and other individuals feel they may speak freely about an applicant's qualifications. Therefore, it is strictly prohibited for an applicant to contact any individual the applicant believes has given information about the applicant to the QS or the Committee for the purpose of attempting to change the input of the person believed to have given the information. Harassment of any person providing information or who is believed by the applicant to have provided information is also strictly prohibited.
 - d. Any activity such as is described in the preceding subsection is grounds for denial of an application, or suspension of or removal from the IDP if the attorney has been admitted to the IDP.
 - e. Applications for admission to the IDP shall inform all applicants of sections c. and d. above.
14. Attorneys who are applying at Level 1 and who do not have the required one jury trial may apply for a waiver of that rule if:
 - a. They have arranged to completed an agreed upon number of jury trials as a second chair with a pre-approved defense attorney.
 - b. This pre-approved defense attorney does not have to be a CCD or IDP attorney. However, the Committee has the sole discretion to determine whether or not the first chair attorney is an appropriate person to act in such a mentor capacity.

- c. Completion of the agreed upon number of second chair trials does gives the attorney the right to have an application for Level 1 be accepted. It in no way guarantees acceptance to the IDP.
15. Except as provided above in IV 1 above, any former IDP attorney who has been removed for cause, or any former IDP attorney who has resigned with a complaint pending, may reapply to the after three years have elapsed from the date of removal or resignation. However, the burden shall be on the former IDP attorney to establish suitability for being on the IDP. The applicant shall specifically address in his/her application the remedial measures taken and/or other changed circumstances that now render the applicant suitable for IDP participation.
16. All applicants who are admitted to the IDP shall first be admitted to the Provisional Attorney List subject to the Policies and Procedures described above regarding such attorneys.
17. Former IDP attorneys described in 15 above shall, if admitted, first be admitted to the Provisional Attorney List subject to the Policies and Procedures described above regarding such attorneys.
18. Any attorney who has been on the IDP regular list within the preceding 18 months may, upon reapplication, be again placed on that list by a vote of the Committee, without the investigation of the QSC described above. This procedure will only apply to an attorney who has voluntarily dropped from the list without any pending Peer Review referrals or other pending complaints; and, who has paid all past fees. No application fee shall be required of an attorney who is again placed on the regular list under this subsection. If a majority of those voting after a quorum has been established by the Committee do not vote to reinstate an attorney to the regular list under this procedure, the attorney shall be informed of this fact. In that case, upon payment of the required fee and submission of the required application, the matter shall be processed in the same fashion as other applications, as described above.
19. Any attorney whose placement on the Provisional Attorney's List is denied has no right to reconsideration by either the Qualifications Subcommittee or the IDP Committee. However, should it come to the attention of either the Qualifications Subcommittee or the IDP Committee that the information and/or materials viewed during the application process were materially inaccurate, the IDP Committee may on its own motion vote to reconsider the matter. In absence of such reconsideration Section 10 of this application shall apply.
20. Any attorney whose placement on the Regular Attorney's List is denied has no right to reconsideration by either the Qualifications Subcommittee or the IDP Committee. However, should it come to the attention of either the Qualification Subcommittee or the IDP Committee that the information and/or materials viewed during the application process were materially inaccurate, the IDP Committee may on its own motion vote to reconsider the matter. In absence of such reconsideration Section 10 and 15 of this section and Section VI 2.k shall apply.

B. Applying for a Classification Upgrade:

1. Only Regular IDP attorneys in good standing may apply for a classification upgrade.
2. Any Regular IDP attorney in good standing may apply for an upgrade, using the simplified Application for Classification Upgrade form that can be found on the SCBA website. The classification requirements for each classification level are set forth on the SCBA website and are also available at the SCBA office.
3. An investigation will be done on regarding the upgrade request. The information obtained will not be shared with the applicant.
4. This investigation includes, but is not limited to surveys of and interviews with judges, attorneys, former employers and other individuals who have knowledge of the applicant's skills and abilities.
 - a. The information derived from the investigation is confidential. The source of information will not be shared with the attorney requesting the upgraded classification. However, to enable an attorney to improve performance, a summary of areas where improvement is desired may be provided.
 - b. It is critical to the evaluation process that judges, attorneys and other individuals feel they may speak freely about the attorneys qualifications for the upgrade. Therefore, it is strictly prohibited for an attorney to contact any individual that the attorney believes has given information about the attorney to the QS or the Committee for the purpose of attempting to change the input of the person believed to have given the information. Harassment of any person providing information or who is believed by the applicant to have provided information is also strictly prohibited.
 - c. Any activity such as is described in the preceding subsection is grounds for denial of reclassification as well as for disciplinary action.
 - d. The Application for Reclassification form shall inform all applicants of Sections b. and c. above.
 - e. Attorneys who are requesting an upgrade are welcome to cause information to be submitted by third parties on their behalf. However, any such information solicited by the attorney must be submitted directly by the person giving the information to the Executive Assistant of the IDP and shall not be delivered by the applicant.
5. The QS reviews the submitted material and makes a recommendation to the Committee regarding classification.
 - a. The QS will provide the Committee with redacted reports of all investigation, unless a person giving the information has agreed that his/her identity may be disclosed to the Committee, in which case the full report as to that person, including name, shall be provided.
 - b. The Committee can decide the matter immediately after the presentation or request that the QS conduct further investigation.
 - c. When the investigation is complete, the Committee shall render a decision on the request.

6. The Committee has the discretion to classify any attorney at any level the Committee believes is appropriate.
 - a. Although a Regular IDP attorney seeking reclassification may meet the minimum requirements for a particular level if the information received causes the Committee to believe that an individual attorney should be classified at a lower level, the Committee has the right to do so.
7. If an attorney is classified at a level lower than that attorney believes appropriate, the attorney may ask to address the Committee at the next meeting that has time available on the Agenda. A new vote shall be taken (in Executive Session, convened after the attorney's presentation) which shall determine the matter.
8. Except as provided in XII B 4 a, the Committee shall not disclose the reasons why a person was classified at a certain level.
9. An attorney applicant may not meet the minimum requirements for a particular level and the Committee may, based on other relevant experience, in its sole discretion choose to classify that person as a higher level.
10. Decisions regarding classification of Regular IDP attorneys who are not on the Provisional Attorney List may be appealed to the IDAC.

C. Reclassification of Attorneys

From time to time, and as circumstances warrant, there may be a reclassification evaluation done of all IDP attorneys or of all of the attorneys of a specific level, even in the absence of attorney requests to do so. This type of reclassification is for the purpose of ascertaining that all attorneys of the IDP are appropriately classed.

D. Forms

The QS shall prepare application for admission forms and classification upgrade request forms that comply with the Policies and Procedures of the IDP. Said forms shall be posted on the SCBA website.

XIV. Peer Review Subcommittee Procedures

A. Complaint Procedure

1. Complaint referrals regarding IDP attorneys, from any source, including but not limited to client, family or judicial officer, are to be directed to the CCD Executive Director (hereafter Director)
2. The Director may, in his/her discretion and within a reasonable period of time, preferably no longer than fifteen (15) calendar days:
 - a. Resolve the matter on an informal basis with the consent of the IDP attorney and notify in writing the Committee Chair, the original complainant(s), and the referred attorney of the complaint and informal resolution; or
 - b. Refer the matter to the Committee Chair and notify in writing the original complainant(s) and the referred attorney of the complaint and referral.
3. The Committee Chair may, in his/her discretion and within a reasonable period of time, preferably no longer than fifteen (15) calendar days:

- a. Resolve the matter on an informal basis with the consent of the IDP attorney and notify in writing the Director, the original complainant(s), and the referred attorney of the resolution of the matter; or
- b. Refer the matter to the PRS and notify in writing the Director, the original complainant(s), and the referred attorney regarding the action taken.

B. Investigation

1. Upon receipt of a referral from the Committee Chair, the Chair of the PRS or his/her designee shall assign an attorney from the PRS to investigate the complaint in a timely fashion, preferably within 30 calendar days, as detailed herein. (This attorney is hereafter the attorney/investigator).
 - a. The attorney/investigator shall interview relevant witnesses, review relevant documents and other evidence.
 - b. The attorney/investigator shall interview the referred attorney regarding the complaint.
 - c. If the investigation has not concluded and/or been presented to the PRS within 30 days, the attorney investigator shall issue a status report to the PRS chair.
 - d. Upon receipt of a status report per c. above, the PRS chair shall immediately report the status of the complaint to the Director.
2. Within a reasonable period of time after the conclusion of the investigation, the PRS shall meet with the attorney/investigator:
 - a. The attorney/investigator shall make a presentation to the PRS, including the facts found and whether in the opinion of the attorney/investigator the complaint is founded or unfounded.
 - b. If in the opinion of the attorney/investigator the complaint is found to have merit, he/she shall present his/her recommendation for disposition to the PRS.
 - c. The PRS shall discuss the matter and take a vote as to whether the complaint is founded or unfounded.
 - d. If the complaint is founded, the PRS shall then discuss the issue of disposition and, upon conclusion of this discussion, vote on what action should be taken among the potential consequences (dispositions) listed below.

C. Notification regarding Findings

1. If the complaint is unfounded, the PRS shall take no further action and shall notify in writing the Committee Chair, the Director, the original complainant(s), and the referred attorney of its decision. Relative to any further Peer Review Procedures, infra., the referred attorney shall have no further recourse.
2. If the complaint is found to have merit, a certified letter shall be sent to the referred attorney, informing him or her of this fact, along with the voted for disposition.
3. The referred attorney shall have fifteen days from the delivery of the certified letter to request a hearing in the matter. If no hearing is so requested, the

disposition agreed upon by the PRS becomes final and the Chair of the PRS shall so notify in writing the Committee Chair, the Director and the original complainant(s). Upon such resolution, said referred attorney shall be required to execute an agreement and follow and comply with the dictates thereof, as provided in Section F, infra.

4. If the referred attorney does not agree with the PRS's disposition of the matter, he/she may, within fifteen days of delivery of the certified letter, request in writing to the Committee Chair that the matter be set for formal hearing. If such a request is made, Committee Chair shall immediately notify in writing the Director and the PRS Chair.

D. Formal Hearing

If the referred attorney requests that the matter be set for formal hearing, the following processes and procedures shall be followed:

1. Within a reasonable time from the receipt of the notification from the Committee Chair, the Director or, if unavailable, the Deputy Director, along with the Committee Chair and the attorney who conducted the investigation, shall meet and confer and appoint a member of the Sacramento County Bar Association to present the case to the PRS; (hereinafter, the "Presenter").
2. Within 7 calendar days of the acceptance of the appointment by the presenter, written notice shall be sent to the referred attorney, by the Chair of the PRS, setting a hearing date no later than 30 calendar days from the date of said notification. The notice shall include a summary of the allegation(s), copies of all relevant documents in the Presenter's possession which form the basis for the allegation(s), and a copy of the rules and procedures as set forth herein.
3. "Evidence" to be considered at the hearing shall be limited to the facts alleged and discovered, which form the basis for the instant referral and any other previous peer review referral(s). The PRS shall give evidence of prior referrals the weight due.
4. Not later than 15 calendar days prior to the date set for the hearing, the Presenter shall submit to the referred attorney a witness and a copy of any additional documents which the Presenter intends to introduce as evidence at the hearing relative to a determination of the merits of the complaint(s) and/or any remedial action.
5. Not later than 10 calendar days prior to the date set for the hearing, the referred attorney shall submit to the Presenter a witness List and a copy of all documents he/she intends to introduce as evidence at the hearing relative to a determination of the merits of the complaint(s) and/or any remedial action.
6. Thereafter, not later than 5 calendar days prior to the date set for the hearing, the Presenter may submit to the referred attorney a supplemental witness List and a copy of any additional documents he/she intends to

introduce as evidence at the hearing relative to a determination of the merits of the complaint(s) and/or any remedial action.

7. Formal rules of evidence will not apply to peer review hearings
8. Hearsay is admissible.
9. Either party may proceed on the basis of documentary evidence only.
10. The referred attorney and the Presenter may call and cross-examine witnesses.
11. The standard of proof required to impose any form of action against the referred attorney shall be by clear and convincing evidence.
12. The attorney/investigator who conducted the investigation of the referred attorney, shall neither participate in the hearing, except as a witness, nor vote in said peer review formal hearing.
13. The referred attorney may be represented at the hearing, and, if represented, shall notify the Presenter of such representation at least 2 business days prior to the hearing.
14. The Hearing shall be recorded by audio tape recording which recording shall be maintained by the PRS for as long as the referred attorney is a on the IDP.

Upon completion of the formal hearing, the PRS must issue written findings and an order within 10 calendar days and shall send a copy of its findings and order to the Committee Chair who will in turn notify the Director, the referred attorney, the Presenter and the original complainant(s).

E. Peer Review Consequences (also called Dispositions) Appropriate action, dependent upon the nature of the conduct and the findings of the PRS and any prior disciplinary referrals which resulted in remedial action being imposed against the referred attorney, may include any or all, but is not limited to:

1. No action taken;
2. Verbal and/or written reprimand;
3. Probation upon certain terms and conditions;
4. An agreement by the attorney to allow appropriate monitoring of the attorney's conduct and performance by an active IDP attorney as designated by the Chair of the PRS;
5. Documented demonstration of specified training requirements being met which may include but are not limited to specific substantive and/or procedural subjects which the attorney is directed to take;
6. Periodic Status reviews by the Committee;
7. Other case specific remedial measures;
8. Reduction in classification;
9. Temporary inactive status on the IDP while being allowed to continue to represent clients on previously assigned cases on a monitored/supervised basis;
10. Temporary suspension from the IDP and re-assignment of pending CCD cases to current IDP attorneys in good standing;
11. Removal from the IDP;

F. Agreement to Conditions

If the referred attorney accepts the imposed findings and order, or appeals the decision and loses the appeal, such attorney shall be required to execute an agreement to abide by the terms of the probation, restriction, suspension, removal, or imposed consequences, for the period of time so designated. Refusal to execute such an agreement shall result in removal from the IDP. Failure to abide by the terms and conditions of the agreement may result in removal from the IDP subject to a hearing provided by the PRS if requested by the referred attorney.

1. The attorney must request such a hearing in writing, directed to the Chair of the IDP, within 10 calendar days from the date of written notice from the PRS to the attorney notifying said attorney that he/she has failed to abide by the terms and/or conditions of the agreement and is being removed from the IDP.
2. The hearing shall be conducted in accordance with the rules for hearing set forth above in Section D
3. There shall be no appeal from the PRS decision on the hearing held pursuant to this section (F).

If an attorney has been suspended from the panel, the signed agreement shall provide that failure to abide by the imposed terms and conditions may preclude reinstatement to the IDP, resulting in removal.

G. Appeal

Except as provided herein, any finding and order made by the PRS may be appealed.

2. Notice of appeal shall be in writing on a form provided by the IDP, and shall be sent to the IDP Chair. The appeal shall be directed to and follow the rules of the IDAC. The appeal shall be filed within thirty (30) calendar days of the notification of findings and order and must include a detailed statement of the findings and/or order being appealed.
3. The Chair of the IDP must within 5 business days send the notice of Appeal to the Chair of the IDAC with the audio tape recording of the formal hearing.
4. The IDAC must schedule a hearing within sixty (60) calendar days of receipt of the written notice of appeal, and must issue an opinion within thirty (30) calendar days from the date of its hearing.
5. A decision by the IDAC is final.

XV. Indigent Defense Appellate Committee Policies and Procedures

A. Purpose and Function

The IDAC shall serve as the final appellate body regarding the following:

1. Claim reductions and/or fee disputes between CCD and a member of the IDP.
2. Classification of IDP attorneys.
3. Peer Review.
4. Removal attorneys on the Provisional Attorney List by either the Committee or the PRS, unless an attorney's assignment to that list has already lapsed.

B. Composition of IDAC

IDAC shall be comprised of the following members:

1. The Chair of the Indigent Defense Panel
2. The Sacramento County Public Defender or his/her designee.
3. A representative of the Sacramento Countywide Services Agency as designated by the Agency Administrator.
4. A member of SCBA as designated by the President of the SCBA.
5. A member in good standing of the IDP as designated by the Chair of IDP.
6. A member in good standing of the IDP as elected by the attorneys of IDP.
7. The President of the SCBA.

C. Time Limits

An IDP member who wishes to file an appeal with IDAC shall do so in writing within thirty (30) calendar days of the notification of findings from either CCD or IDP. IDAC shall then schedule a hearing where the Appellant may be present within sixty (60) days of receipt of the appeal. IDAC shall notify the Appellant of its decision within thirty (30) calendar days of the hearing. California Code of Civil Procedure section 1013 shall apply to any of the time limits as herein described. If the 30th or 60th calendar day in which any act under these policies and procedures is to be taken falls on a Saturday, Sunday or a Court Holiday, the time limit in which to act shall be extended to the next business day.

D. The Appeal to IDAC

1. No specific form is required for an appeal; however, all appeals shall be in writing and shall be accompanied by a proof of service to CCD. Failure to provide a proof of service with the notice of appeal shall not invalidate the appeal, but the Appellant shall not be entitled to a hearing on the appeal, and none of the time limits in Section C shall apply, until such proof of service is provided.
2. No new or additional information not presented by the member at the prior proceeding may be included as part of the record on appeal, except in a fee dispute case involving the review of discovery. In such discovery review

- cases, it shall be sufficient for the Appellant to bring a copy of the subject discovery to the hearing rather than to include a copy as part of the record on appeal.
3. If any oral testimony from the prior proceeding is preserved, the IDP member may, at his or her own expense, prepare and submit a written transcript of the prior proceeding as part of the record on appeal. All written transcripts shall be on pleading paper and the IDP member shall cite to the specific sections of the transcript that he or she would like IDAC to consider.
 4. The record on appeal, including any written transcripts of the prior proceeding, shall be lodged by the Appellant at the time of the filing of the appeal and, in the case of a fee dispute, shall include a proof of service to CCD. Failure to provide a proof of service of the record of appeal to CCD shall not invalidate the appeal, but the Appellant shall not be entitled to a hearing on the appeal, and none of the time limits in Section C shall apply, until such proof of service is provided.
 5. The deadline for filing a written transcript of the prior proceeding may be extended may be extended by IDAC for good cause shown. Any such request for an extension of time shall toll the time limits contained in Section C for 20 days or until IDAC rules on the request, whichever occurs first.
 6. If IDAC grants the request, the time limits in Section C shall not begin to run until the transcript is lodged or the new date for filing the transcript has expired, whichever occurs first. If IDAC denies the request, the time limits in Section C shall begin to run from date notice of the denial is given.
 7. If IDAC does not rule on the request within 20 days, the request shall be deemed to have been granted. In the discretion of the IDAC Chair, a vote on any request for an extension of time may be conducted by email or other comparable electronic means.
 8. The quorum rules contained in Section E shall apply to such comparable electronic or email votes. No extensions of time shall be allowed for filing the record on appeal other than for the written transcript of the prior hearing.
 9. Appeals shall be directed to the Executive Assistant at the SCBA offices at 1329 Howe Avenue, Suite 100, Sacramento California 95825.
 10. The Executive Assistant shall copy all materials submitted by the Appellant and distribute them to each of the seven members of IDAC.
 11. The Executive Assistant shall coordinate a hearing date with the Appellant and the IDAC members in compliance with the time limits set forth above.
 12. The Executive Assistant shall also coordinate the hearing date with CCD in any fee dispute cases.
 13. The Appellant shall clearly indicate in the appeal all issues the Appellant is appealing from and the basis for the appeal. No appearances other than by the Appellant shall be allowed at the IDAC hearing, except in the case of a fee dispute, in which case CCD shall be also allowed to appear.

14. Any appearance by CCD may, in the discretion of the IDAC Chair, be conducted outside the presence of the Appellant, subject to the Appellant's consent.
15. In any fee dispute case, CCD shall have 30 days from the date of service of the notice of appeal to file any written material in connection with the appeal. Any such material from CCD shall be accompanied by a proof of service to the Appellant. Failure to provide such proof of service shall not invalidate the submittal. However, no submittal by CCD shall be considered by IDAC unless a proof of service to the Appellant is provided within 10 calendar days of the date of the hearing.
16. When filing any material in connection with an appeal, CCD shall provide sufficient copies for each IDAC member, unless such material is submitted electronically, in which case a single electronic copy shall be sufficient.

E. Recusal

No IDAC Committee member shall hear or participate in any appeal if that Committee member was involved in the subject of the dispute or participated in the decision that lead to the appeal. However, the Chair of the Committee may hear or participate in any appeal where his/her sole involvement was referral of the matter to the PRS. However, in this circumstance in his/her discretion, the Chair may recuse him/herself., If the Chair participated in an attempt to informally resolve the matter under XIV A 3 a above, he/she shall recuse him/herself. Recusal is from voting only. Recusal does not prohibit the Committee member from participating fully in all other aspects of the proceeding.

F. Quorum

Five members of IDAC shall be present at a hearing to form a quorum unless two or more members have been recused from voting pursuant to paragraph E, above. In the event that two or more members have been recused from voting pursuant to paragraph E, then three members of IDAC, eligible to vote on the matter shall be present at a hearing in order to form a quorum.

G. Chair of IDAC

Subject to the approval of the SCBA Board, the Chair of IDAC shall be elected by the IDAC members. The Chair of IDAC shall remain Chair for one year whereupon he/she may be elected Chair again. Any opinion rendered by IDAC to shall be written and signed by the Chair of IDAC on behalf of the entire IDAC committee, and sent to the Appellant, the Chair of the Committee, the Director and the Executive Assistant.

H. Finality

Pursuant to the Memorandum of Understanding (MOU) between the County of Sacramento and the Sacramento County Bar Association, all decisions by IDAC are final.