



State of New York
Supreme Court, Appellate Division
Third Judicial Department
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Betsy R. Ruslander
Director

MEMORANDUM

To: All Third Department Panel Members, Family Court Judges, Family Court Clerks and Supreme Court Matrimonial Justices
From: Betsy R. Ruslander
Re: Office of Attorneys for Children Revised Administrative Handbook and Compensation and Reimbursement Policies and Procedures
Date: November 7, 2018

Attached is a link to the most recently updated edition of the Office of Attorneys for Children *Administrative Handbook*, containing important information about our office's operations, including significant revisions to Court Rules and the Compensation and Reimbursement Policies and Procedures. Click here to access the [Administrative Handbook](#).

There have been significant changes that are highlighted below, with references to the corresponding pages and sections of the *Handbook*:

1. **Rules of the Appellate Division** - p. 10

The Rules of the Appellate Division, All Department (22 NYCRR) part 1250, adopted by the four Judicial Departments of the Appellate Division on December 12, 2017 and revised by joint order on June 29, 2018, became effective on September 17, 2018. By order dated June 26, 2018, the Third Department rescinded 22 NYCRR part 800 and adopted a new part 850 to supplement the new Rules of the Appellate Division. The new part 850 became effective on September 17, 2018. The new rules will apply to (1) all matters commenced in the Appellate Division, or in which a notice of appeal to the Appellate Division is filed, on or after the effective date, and (2) all matters pending in the Appellate Division on the effective date, unless otherwise ordered by the Court upon a showing that application of the rules would result in substantial prejudice to a party or would be manifestly unjust or impracticable under the circumstances.

2. **Part 835 - Attorneys for Children** - pp. 11-15

a. **Introductory Training** - p. 11

§ 835.2 (a) - The introductory training for new panel members will be changed from the two-day format to a list of required videos plus one day of live training. This new format will commence in October 2019. Information will be forthcoming. In the meantime, the Fourth

Department will be hosting the old style format in March 2019.

b. **AJD Panel** - p. 12

§ 835.2 (b) - The Advanced Juvenile Delinquency Panel for JD Proceedings in which a felony is alleged is a new panel designed to recruit criminal defense attorneys who only wish to be on the AFC panel for purposes of representing 16 and 17-year-old youths in connection with Raise the Age. The training requirement is limited, as will be the assignments. This does not apply to any current panel members who remain eligible for any Family Court assignment. It will simply allow additional members who are felony trained to go on the AFC panel for the limited purpose of representing youths in felony cases that commence in the Youth Part. The application can be found on our website at [nycourts.gov/ad3/oac/Administrative Forms](http://nycourts.gov/ad3/oac/Administrative_Forms).

c. **New Billing Rules** - p. 15

§ 835.5 has been amended to require submission of AFC vouchers on an annual basis. The new rule requires vouchers to be submitted every 12-14 months from the date of the first activity and every 12-14 months thereafter through the final activity in the case. Because interim vouchers have been required since 2015, this should not be a big change as vouchers should have been submitted on an annual basis since then. Appellate vouchers may only be submitted once, following the decision. Because vouchers will be submitted every 12 months, including permanency hearings, there will be little, if any, need for more frequent interim billing. However, if a panel member wishes to bill more frequently, please call the Office of Attorneys for Children for permission to do so.

3. **Advisory Committee** - p. 17

There is an updated list of the most recent roster of the Advisory Committee members.

4. **Liaison Committees** - pp. 18-22

There is an updated list of the most recent contact information for each county liaison representative.

5. **Children's Law Offices** - p. 23

There is an updated list of the most recent contact information for the Children's Law Offices.

6. **Compensation and Reimbursement Policies and Procedures** - pp. 24-36

a. **Time-Keeping Records** - p. 24

Emphasis is added to the requirement for time-keeping records that must be separate and apart from the voucher. The voucher is not self-authenticating and panel members must maintain separate time-keeping records, including documentation to ensure justification of vouchers.

b. **When to Submit Vouchers** - p. 28

To comport with the change of 22 NYCRR 835.5, vouchers are to be submitted every 12-14 months from the date of the first activity in the case and every 12-14 months thereafter through the final activity in the case. Appellate vouchers are submitted only once following the decision. More frequent interim vouchers require approval of the Office of Attorneys for Children.

c. **IDV Vouchers** - p. 29

Subject to the new billing time frames, a voucher is to be submitted to Family Court for all activities completed there, through the date of transfer. A voucher for all activities in Supreme Court should be submitted for all activities from the date of transfer through completion of the case.

d. **Drug Treatment Court** - p. 29

Attorneys who are assigned to handle Drug Treatment Court must comply with the annual billing rules set forth in 22 NYCRR 835.5.

e. **Raise the Age** - p. 29

For cases sent to Probation Adjustment, the attorney will select "Supreme Court" (not the "Family Court" because there is no Family Court Docket number), then select the *new* Proceeding Type entitled "RTA – Probation Adjustment" and enter the Felony Youth Complaint (FYC) Docket number that was assigned in the Superior Court Youth Part. Until the new proceeding code is available, JD or Designated Felony may be selected. Cases that are sent directly to Family Court without going to Probation Adjustment will be billed as they normally would for a JD proceeding by selecting "Family Court" and the appropriate Proceeding Type (ex: D – Juvenile Delinquency or E – JD Designated Felony) and entering the Family Court Docket number.

f. **Proceeding Codes** - p. 30

An updated list of proceeding codes is provided. Attorneys should make sure to select the proceeding code that is most specific to the case.

g. **Activity Codes** - p. 31

Just a reminder that attorneys should make sure to include a brief description of the services provided, as indicated. Additionally, attorneys should not combine activity codes, especially client contact and travel.

h. **Excess Compensation Claims** (over \$4,400) - pp. 31-32

In light of the new billing rules, vouchers should not contain activities of extended duration and, as such, that factor has been eliminated from the list of factors constituting "extraordinary circumstances." Additionally, when drafting the affidavit of extraordinary circumstance, attorneys should include specifics describing what the case was about that constituted extraordinary circumstances, not merely a perfunctory statement.

i. **Expert services** - p. 33

If expert services are to be provided jointly to the child and other participants in the case, the Office of Attorneys for Children is authorized only to pay for services to the child. As such, where it is appropriate, attempts should be made to seek contribution from the adult litigants. As always, if the expense is over \$1,000 (\$500 for transcripts), pre-approval is required from the judge and from the Office of Attorneys for Children (see Figure 4).

If you have questions about any aspect of the *Handbook*, please don't hesitate to contact me.

Thank you very much.