

The CJA Developmental Panel Guidelines



March 13, 2019

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I. Introduction

The CJA Developmental Panel is a two-phase recruitment and mentoring program aimed at increasing CJA Panel diversity in the Eastern District of California. The program will provide diverse attorneys (“Developmental Attorney”) who do not yet have the requisite experience for CJA Panel membership, an opportunity to learn federal criminal defense practice from members of the CJA Panel and the Federal Defender’s Office.

Phase 1 will be a rigorous federal criminal defense training program. Developmental attorneys will “graduate” from Phase 1 to Phase 2 after successfully completing all requirements. In Phase 2, developmental attorneys will be assigned a “lead attorney” mentor and appointed as associate counsel to provide non-duplicative representational services.

The number of attorneys eligible for the CJA Developmental Panel will be approved on an annual basis by the Judiciary Advisory Committee (JAC) before commencement of Phase 1 to ensure sufficient funds for all successful Phase 1 participants.

II. Program Administration

The Federal Defender’s Office (FD-CAE) will administer this Program through its CJA administrative staff and an Assistant Federal Defender designated by the Federal Defender for this purpose (Program Coordinators).

A. Program Coordinator Duties

1. Administrative

The Program Coordinators are responsible for the daily administration of the Program and will:

- i. Meet periodically with Developmental Attorneys and lead attorneys to assess their cases’ progress, the Developmental Attorneys’ development, and identify areas in which the Developmental Attorney may benefit from additional training or instruction;
- ii. Select and assign lead attorneys and Developmental Attorneys to each other; and
- iii. Create systems for effective, efficient administration, including methods to assess the program’s success.

2. Training

The Program Coordinators will:

- i. Develop training materials and a structured training program for Developmental Attorneys which will include skill development and substantive legal issue instruction by AFDs or CJA panel attorneys;

- ii. Make available to Developmental Attorneys individual training or group training sessions, conducted by knowledgeable attorneys; and
- iii. Create a method of tracking and reviewing Developmental Attorneys' training time during Phase 1.

3. Recruitment

The Program Coordinators will:

- i. Recruit attorneys to participate in the Developmental Panel - Recruitment efforts must reach throughout the District to attorneys committed to indigent defense and developing the skills needed to become effective federal court practitioners;
- ii. Demonstrate a commitment to increase diversity and minority representation in the Eastern District's federal criminal defense bar;
- iii. Recruit exceptional CJA panel attorneys to serve as lead attorneys in the Developmental Panel; and
- iv. Select Developmental Panel participants with the Developmental Panel Selection Committee's assistance.

B. Developmental Panel Selection Committee

The Developmental Panel Selection Committee will assist the Program Coordinators with Developmental Panel administration and will consist of the Federal Defender and/or their Assistant Federal Defender designee, and an Eastern District CJA Panel attorney. This selection committee is independent from the traditional CAE-Panel Selection Committee.

III. Developmental Panel Attorneys

A. Eligibility Requirements

- i. Be members in good standing of the California State Bar and the Eastern District of California bar¹;
- ii. Maintain a primary, satellite or shared office in this district;
- iii. Be interested in developing strong litigation and writing skills, and learning the Federal Rules of Evidence, the Federal Rules of Criminal Procedures, the Federal Rules of Appellate Procedure, federal sentencing procedures, the Bail Reform Act, and this District's Local Rules; and
- iv. Demonstrate a commitment to providing defense services to clients who are eligible for court-appointed counsel.

¹ Admission to the Eastern District of California Bar is only required if selected as a Developmental Attorney. Applicants do not need to be admitted prior to submitting their application for consideration but must apply for admission immediately if selected.

B. Program Participant Selection

- i. The Program Coordinators and Selection Committee will review the Developmental Attorney applications in the same manner as attorneys are reviewed for membership onto the CJA Panel under this District's CJA Plan;
- ii. The Program Coordinators and Selection Committee will select and forward to the Court for its approval their recommended list of the Developmental Attorneys for Developmental Panel participation; and
- iii. The Program Coordinators will notify the selected attorneys upon the Court's approval.

C. Developmental Panel Removal or Resignation

A Developmental Attorney may be removed from the Developmental Panel if they are unable to meet the program's expectations, see *infra*, Section IV. The Federal Defender, or their designee, consulting with the Program Coordinators and the assigned Lead Attorney, may remove an attorney who fails to follow these Guidelines or for the reasons in this District's CJA Plan, Section IX.C.7.

IV. Participant Expectations

A. Lead Attorney

The individual serving as Lead Attorney is the panel attorney or Assistant Federal Defender appointed to represent the defendant under the CJA. As such, the Lead Attorney must:

1. Be present at all court proceedings;
2. Retain ultimate case responsibility, including the final decision-making authority about legal strategy;
3. Be primarily responsible for client communication;
4. Agree to mentor and supervise the Developmental Attorney during the case stages to which the Developmental Attorney is assigned;
5. Submit in eVoucher all case-related expenses, except for the Developmental Panel Attorney's travel expenses and any other expenses approved under Section VI(C); and
6. Submit a funding authorization with a detailed scope of work for Developmental Attorney's representational services in Phase 2.

B. Developmental Panel Attorney

1. Phase 1

Developmental Attorneys must complete 40 hours of structured criminal defense training. No representational services will be provided during this phase.

Attorneys must track their training hours and submit a log of such hours to the program coordinators upon completion. Coordinators will review all training logs

for accuracy, and then forward them to the Judicial Advisory Committee (JAC) or their designee for review. The Selection Committee will then review the Developmental Attorney's participation and training to provide a recommendation as to Phase 2 readiness.

Developmental Attorneys must attend the Federal Defender's Office sponsored CJA Panel training seminars. Attendance will not count towards the 40 hour Phase 1 requirement.

2. Phase 2

Developmental Attorneys will be assigned a "lead attorney" mentor and provide non-duplicative representational services in an associate counsel capacity. Developmental Attorneys must assist their Lead Attorney as requested in the scope of work. Developmental Attorneys have the same professional responsibilities to the Client and the Court as if they were members of the CAE-CJA Felony Panel.

A Developmental Attorney may only provide the services as described in the scope of work. Unless the chief judge and the presiding case judge authorizes in advance providing other services, a Developmental Attorney must not authorize other services or have their law firm authorize other services for the case. Other services may include, for example, electronic discovery assistance, paralegal assistance, or evidence presentation assistance.

After completing 80 hours of associate level work, Developmental Attorneys are encouraged to apply for CAE-CJA Felony Panel membership.

V. Case Assignments

Developmental Attorneys will be assigned a Lead Attorney at the Program Coordinators' discretion. The Lead Attorney will select the appropriate case for the Developmental Attorney's services and apply to the court for appointment of the Developmental Attorney as associate counsel to provide non-duplicative representational services.

VI. Compensation and Expenses

A. Payment Source

1. Phase 1

Developmental Attorneys will receive a \$2,500 grant from JAC's non-appropriated fund, pursuant to the fund's payment and IRS reporting procedures.

2. Phase 2

All Developmental Attorney payments in Phase 2, including hourly fees and travel-related expenses, will be authorized and paid using CJA funds through the Court's eVoucher system. CJA Developmental Panel Attorneys will have their compensation managed by the Lead Attorney.

B. Hourly Rates

Phase 2 Developmental Attorney compensation will be within the current associate rate prescribed by the *Judicial Council of the Ninth Circuit's Criminal Justice Act Policies and Procedures* Appendix 1, addressing in court and out of court services.² The Lead Attorney will submit a proposed rate, scope of work and number of estimated hours to the presiding judge in each funding request.

C. Expenses

Developmental Attorneys may incur travel-related expenses, such as mileage and parking. Travel expenses are reimbursed at the current mileage rate prescribed for federal judiciary employees at the time incurred.³ However, Phase 1 attorneys will not be reimbursed expenses in addition to the JAC grant. Phase 2 attorneys may be reimbursed expenses in addition to their compensation.

Any other expenses, such as costs associated with experts (procuring transcripts, computer-assisted legal research, electronic discovery assistant, filing fees, etc.), are not reimbursable to any Developmental Attorney. Rather, it is the appointed Lead Attorney's responsibility to eVoucher these expenses and seek reimbursement in accordance with the *Guide to Judiciary Policies*.⁴

ORDER

It is so ordered, the above guidelines are approved.

DATED: March 27, 2019



LAWRENCE J. O'NEILL
Chief Judge, Eastern District of CA

²<https://www.cacd.uscourts.gov/sites/default/files/documents/Judicial%20Council%20of%20the%20Ninth%20Circuit%20Criminal%20Justice%20Act%20Policies%20and%20Procedures.pdf>

³ <https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov-rates-etc/privately-owned-vehicle-pov-mileage-reimbursement-rates>

⁴ Vol.7, Part 1, Chap.2 and 3, <http://www.uscourts.gov/rules-policies/judiciary-policies/criminal-justice-act-cja-guidelines>