

UNIFORM FEE SCHEDULE – FREQUENTLY ASKED QUESTIONS
S.L. 2016-94, §19A.4

QUESTIONS	ANSWERS
Q: Does the fee schedule apply? The Uniform Fee Schedule applies to all case types listed in the District Court Fee Schedule and is effective for newly assigned cases beginning June 1, 2017.	
Q: Does the fee schedule apply to work done in superior court?	A: No – the fee schedule applies to all case types listed in the District Court Fee Schedule finally disposed of in the district court.
Q: Does the fee schedule apply to felonies disposed of in district court?	A: Yes – the fee schedule covers felonies finally disposed of in district court.
Q: What about misdemeanors appealed to superior court?	A: Yes and no – the fee schedule applies to work done in district court; however, you should bill at the hourly rate for work done in superior court.
Q: Does the fee schedule apply if the case is appealed from district to superior court but remanded to district court for final disposition?	A: Yes – the fee schedule applies when a case appealed to the superior court is remanded and disposed of in district court. If you determine the case may qualify as exceptional, then you should submit the case to the presiding district court judge for consideration as exceptional.
Q: What if on April 10 I was appointed to represent a client for one charge, and on June 9 I was appointed to represent him on another.	A: If the new and old charges are resolved at the same time, the fee policy in effect at the time of your original appointment controls. If the charges are <u>not</u> resolved at the same time, the fee schedule applies to the charges to which you were appointed on June 9 and the hourly fee applies to the charges to which you were appointed on April 10.
Q: What does not change with the implementation of the fee schedule?	
Q: Which fee application do I use?	A: You will continue to use the same fee application you use under the hourly system. Criminal – AOC-CR-225 Juvenile Delinquency – AOC-J-411 Parent Representation – AOC-G-200
Q: Is the fee applied per defendant, per charge, per file number, or per disposition?	A: The flat fee is applied per disposition in a single session of court. Example: If your client is charged with multiple offenses and you resolve all of them in a single session of court, you will be compensated at the fee applicable for highest original charge.

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Q: What does not change with the implementation of the fee schedule?	
Q: Does the fee schedule alter the scope of my representation?	A: No – the fee schedule does not alter the scope of your representation. If, for example, you negotiate a deferred prosecution for your client, then you still are required to ensure that the charges are dismissed if the deferral is successful or, if not successful, represent the client if reinstated.
Q: How is the fee schedule applied? Assigned counsel will be paid under the fee schedule for the most serious charge resolved in the same session of court.	
Q: How do I determine which fee applies when my client is charged with multiple offenses?	A: The fee is based on the highest original charge. Example: If you resolve a Class 1 Misdemeanor and a DWI at the same time, you will be compensated at the DWI rate regardless of whether the DWI and the misdemeanor arose out of the same or separate transactions.
Q: What if my client pleads to/ is found guilty of a lesser included offense and the lesser included offense is covered by a lower fee than the original charged offense?	A: The fee is based on the highest original charge. Example: If you resolve a Class H felony by admission to a lesser included misdemeanor, you will be compensated at the felony rate.
Q: What does “substantive work” mean?	A: If you withdraw from a case after performing substantive work, you will be compensated at the withdraw rate. If you have performed substantial work—e.g., you have appeared in court with the client several times, met with him several times, and were preparing for trial when you discovered a conflict, you may want to consider asking the court to designate the case as exceptional. Example: You are appointed to represent an incarcerated client. After reviewing the charging documents and visiting him at the jail you discover a conflict. You have performed substantive work and are entitled to compensation at the withdraw rate.

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Q: How do I seek compensation?	
Q: Can I submit a fee application for expenses?	A: Yes – you still may obtain reimbursement for out-of-pocket expenses under current IDS policies governing expenses for hourly cases.
Q: Can I submit an interim fee application?	A: Yes – Generally, you should wait until final disposition to submit a fee application; however, IDS understands that in some cases waiting for payment until final disposition may impose an unfair burden. In cases where there is a significant delay between the filing of charges and final disposition and you feel that the amount of time worked on the case may entitle you to exceptional pay, you may wish to file an interim fee application.
Q: If my client receives a deferred prosecution, can I go ahead and submit my fee application?	A: Yes – but you may not file a subsequent fee application if the district attorney reinstates the charges.
Q: When can I seek exceptional pay?	A: The fees are designed to fairly compensate you based upon the average number of hours spent on that case type. If you determine that the fee is unfair for a particular case because you have worked an exceptional number of hours, you may ask the court to designate the case exceptional. It is solely within the presiding judge’s discretion to designate a case as exceptional.
Q: How do I seek exceptional pay?	A: When you determine a case may qualify as exceptional you should submit the appropriate fee application and a detailed time sheet to the presiding judge for designation as exceptional. If the presiding judge approves the case for exceptional pay, you should submit the signed fee application and the detailed time sheet to IDS. The detailed time sheet is the only way to alert IDS that the case has been designated as exceptional.

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Child Welfare – Parent Representation and Parent GAL	
Q: When should I file my fee application?	A: You should file a fee application following the final disposition for each segment of the proceeding. Counsel should file a final fee application after: <ol style="list-style-type: none"> 1. the initial disposition hearing, 2. each completed review hearing, 3. each completed permanency planning hearing, and 4. the completion of any TPR proceeding.
Q: Can I submit one fee application for multiple segments of a proceeding?	A: No – You should submit one fee application following the final disposition for each segment of the case. Exception: If multiple segments of the case—e.g., adjudication, initial disposition, and initial review hearing—are concluded during a single session of court, you should submit one fee application with a note clarifying that multiple segments were concluded during a single session of court. You will be compensated for one segment at the rate applicable for the most serious disposition. If you submit a fee application seeking compensation for multiple segments of a proceeding without clarification, IDS will return the fee application and seek clarification.
Q: Can I submit an interim fee application if a case takes a long time to reach disposition?	A: Yes – Generally, you should wait until a final disposition for the segment of the proceeding to submit a fee application; however, IDS understands that in some cases waiting for payment until final disposition may impose an unfair burden. In cases where there is a significant delay between filing of a petition and final disposition and you feel the amount of your work on the case may entitle you to exceptional pay, in which case you should request the court designate the case as exceptional for that segment of the proceeding. Once a case has been designated exceptional it remains exceptional for that segment of the proceeding.

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Q: What if I file a motion for review in an AND case?	A: A motion for review will be paid at the review hearing/ permanency planning hearing rate.
Q: Which fee applies if my client relinquishes his/her parental rights?	A: A relinquishment is a disposition and will be compensated at the rate applicable for the segment of the proceeding during which it is tendered.
Q: What if we are unable to conclude the adjudication and disposition in a single session of court?	A: If you are unable to conclude the adjudication and disposition in a single session of court, you should wait until the disposition is concluded to file your fee application unless you determine an exceptional pay may be warranted, in which case you should request the court designate the case as exceptional for that segment of the proceeding.
Q: What if I am relieved as provisional counsel?	A: If you are relieved or removed as counsel in a case where you were provisionally appointed to represent a parent, you should follow the withdraw policy (See above: “What does “substantive work” mean?”)
Juvenile Delinquency	
Q: Does the fee schedule apply if the case is transferred to superior court?	A: Yes and no – the fee schedule applies to the work you do in the district court. If the case is transferred to superior court, you should bill at the hourly rate for work done in superior court.
Q: How do I bill if the case is adjudicated in a pilot county but transferred to a non-pilot county for disposition?	A: The fee schedule applies to the portion of the proceeding that takes place in the pilot county but the hourly rate applies to the portion of the proceeding that takes place in the non-pilot county. Example: If your client is adjudicated delinquent in a pilot county, then you should submit a fee application for applicable adjudication and disposition rate. If you also represent the juvenile in the disposition proceeding in the non-pilot county, you should submit a fee application in that county for hourly compensation. The same is true in the reverse.

If you have questions about the following procedures, please feel free to contact Whitney B. Fairbanks at (919) 354- 7200 or Whitney.B.Fairbanks@nccourts.org.