



MARY POLLARD

EXECUTIVE DIRECTOR  
MARY.S.POLLARD@NCCOURTS.ORG

OFFICE OF INDIGENT  
DEFENSE SERVICES  
SAFEGUARDING JUSTICE

NCIDS.org

BRYAN JONES

CHAIR

## Memorandum

To: Indigent Defense Attorneys, Public Defenders, Assigned Counsel  
Cc: District and Superior Court Judges, Clerks of Superior Court  
Re: IDS Policies Governing Attorney Fee and Expense Applications in Non-Capital Criminal and Non-Criminal Cases at the Trial Level  
From: Office of Indigent Defense Services  
Date: Revised January 1, 2026

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*Pursuant to G.S. 7A-454, G.S. 7A-458, and G.S. 7A-498.3(c), the Office of Indigent Defense Services ("IDS") hereby adopts the following policies and procedures, which shall govern fee applications that are directed to district and superior court judges in indigent non-capital criminal and non-criminal cases at the trial level.*

**Note:** These policies implement and supplement the rules adopted by the IDS Commission governing appointment and compensation of counsel in non-capital criminal and non-criminal cases. For the full text of those rules, see [Part 1: Rules for the Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level](#).

**Effective Date:** These policies apply to fee and expense applications submitted in non-capital criminal and non-criminal cases filed on or after January 1, 2026. For cases filed before that date, prior policies remain in effect.

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## **I. Attorney Fee and Expense Applications**

### **A. The Application Forms & Submission Processes:**

#### **Non-Capital Criminal Cases**

To seek compensation in any non-capital criminal case at the trial level the appointed attorney must complete the most current version of the AOC-CR-225 Non-Capital Criminal Case Trial Level Fee Application<sup>1</sup>, available at <https://www.ncids.org/ids-forms/>.

The completed fee application form must be submitted to the court via eCourts File & Serve <https://efilenc.tylertech.cloud/OfsEfsp/ui/landing>, served on [OASIS@nccourts.org](mailto:OASIS@nccourts.org), and immediately following submission of the fee app a corresponding invoice for the case must be submitted via OASIS at <https://idsbilling.org/>.

For more information see <https://www.ncids.org/oasis/>.

**Note:** Managed Assigned Counsel (“MAC”) do not use fee applications for payment and instead bill for services using the MAC payment system, providing recoupment documentation to the court according to their IDS contracts and policies.

#### **Juvenile Delinquency Cases**

To seek compensation in any juvenile delinquency case or undisciplined contempt at the trial level the appointed attorney must complete and submit the most current version of the AOC-J-411 Juvenile Delinquency Trial Level Fee Application, available at <https://www.ncids.org/ids-forms/>.

The completed fee application form must be submitted to the court via eCourts File & Serve <https://efilenc.tylertech.cloud/OfsEfsp/ui/landing>.

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<sup>1</sup> Applicants seeking compensation for representation in cases that began with a charge of first-degree murder or undesignated degree of murder at the trial level (except cases in which the defendant was under 18 years of age at the time of the offense), as well as in capital appeals or capital post-conviction cases, should complete form AOC-CR-425 and submit it directly to the IDS Office. See IDS Rule 2A.1(a). Applicants seeking compensation for representation in non-capital criminal or non-criminal appeals should complete form AOC-CR-426 and submit it directly to the IDS Office. Policies governing fee applications that are submitted directly to the IDS Office are available at [www.ncids.org](http://www.ncids.org).

**Note:** Managed Assigned Counsel (“MAC”) do not use fee applications for payment and instead bill for services using the MAC payment system, providing recoupment documentation to the court according to their IDS contracts and policies.

### **Non-Criminal Cases**

To seek compensation in any non-criminal case at the trial level, such as abuse/neglect/dependency, termination of parental rights, competency, commitment, and child support contempt, the appointed attorney or guardian ad litem must complete and submit the most current version of the AOC-G-200 (Civil Case Trial Level Fee Application), available at <https://www.ncids.org/ids-forms/>. The completed fee application form must be submitted to the court via eCourts File & Serve <https://efilenc.tylertech.cloud/OfsEfsp/ui/landing>.

**Note:** Managed Assigned Counsel (“MAC”) do not use fee applications for payment and instead bill for services using the MAC payment system, providing recoupment documentation to the court according to their IDS contracts and policies.

### **B. Fee Application Deadlines:**

- Attorneys should consult IDS Rule 1.9(a)(1a) for deadlines on the submission of final fee applications in non-capital criminal and non-criminal cases at the trial level.
- Final attorney fee applications and invoices **for any cases appointed on or after January 01, 2026**, must be signed by the appointed attorney and submitted **no more than ninety (90) days after the date on which the case was finally disposed at the trial level**.
  - A disposition of “voluntarily dismissed with leave” is a final disposition that triggers the deadline.
  - If the attorney withdraws from the case, the attorney must submit the fee application no later than ninety (90) days from the date the withdrawal is granted.
- If a fee application was not submitted within the applicable deadline, the attorney may be eligible to apply to the IDS Director for a waiver of the deadline in accordance with IDS Rule 1.9(a)(1a) and IDS Policy, Extensions and Waivers of Appointed Attorney

Fee Application Deadlines, available at <https://www.ncids.org/ids-policies-and-rules/>.

- Fee deadline waivers are authorized only when there are serious medical, health, safety, or force majeure reasons beyond the control of the attorney that prevent their ability to timely seek payment.

**C. General Billing Principles:**

- In assigned cases, the “Name of Applicant” on the fee application is always the individual attorney who provided the client representation. If payment is to be made to that individual attorney, the “Payee” should be listed as “same”. If payment is to be made to the applicant’s law firm, the “Payee” should state the name of the law firm.
- Per U.S. tax law and State policy, the Payee must have a State of North Carolina Substitute W-9 Form on file with IDS Fiscal Services and the Office of State Controller. See <https://www.ncids.org/sub-w-9-form/>.
- Attorney payments will be issued by IDS via direct deposit/electronic payment (ePay). See <https://www.ncids.org/direct-deposit-epay-form/>.
- Attorney time must be tracked and reported on fee apps in hours and tenths of an hour (6-minute increments) using decimals. For 1-6 minutes worked bill for “.1” hour, for 7-12 minutes worked bill for “.2” hours, etc., actual time worked is rounded up to the nearest tenth of a decimal. If an attorney works 1 hour and 46 minutes, for example, that is billable as “1.8” hours.
- ✓ See the “Tenths of an Hour Decimal Conversion” chart below:

Minutes	Decimal (6-min)
1-6	.1
7-12	.2
13-18	.3
19-24	.4
25-30	.5
31-36	.6
37-42	.7

43-48	.8
49-54	.9
55-60	1

- Attorneys must report their total time claimed, as well as their total time broken down into time in court, time out of court, and time waiting.
  - ✓ Time in court is time spent in a court proceeding before a presiding judge or clerk.
  - ✓ Time out of court is time spent preparing the case, including negotiations with the prosecution or other opposing counsel, even if such activities take place at the courthouse.
  - ✓ Time in court waiting is time during which the attorney must be present in court waiting for an appointed case to be called or heard, and the attorney is unable to use that time to conduct work on other cases.
- If an attorney seeks compensation for time spent waiting in court for multiple cases to be called or working on multiple cases simultaneously, the attorney’s time must be prorated among each of the cases involved. IDS Rule 1.9(a)(1a).
  - ✓ **For Example:** Appointed attorney is in court waiting for 3 appointed cases to be called and waits 1 hour total.
    - The attorney **would not** claim 1-hour of “time in court waiting” for each case (the attorney did not wait 3 hours).
    - The attorney **would** claim .4 hours of “time in court waiting” for each case.
      - The 1 hour of “time in court waiting” is shared by the 3 clients, this is 20 minutes each, using the “Tenths of an Hour Decimal Conversion” chart above 20 minutes is equal to .4 hours.
- Attorney time spent preparing or submitting a fee application is not compensable.
- Attorney must maintain an itemized billing record for each appointed case that provides sufficient detail regarding counsel’s services to demonstrate that the claim for compensation is reasonable. The record must include the date of first substantive client interview, date of work, a brief description of work performed, and time spent per item. These records must be retained by the attorney and be available for review by IDS for 5 years for audit purposes, regardless of whether the court or IDS Director requires the itemized billing record to be attached to the fee application.

**For Example:**

**Attorney Name: XXX**

**Case Number: 23CR123456**

<b>Date</b>	<b>Brief Description of Work</b>	<b>Time Spent Per Item</b>
3/05/2025	Appointment and case review	.5 hours
3/07/2025	Initial Substantive Client Interview	1 hour
3/10/2025	Client phone call	.5 hours
3/12/2025	Review discovery	1.2 hours
3/20/2025	Court hearing	1.6 hours
<b>Total</b>	<b>4.8 hours</b>	

- If required by the presiding judge, by local rule, or by request of the IDS Director, an applicant must attach the itemized billing record described above to the fee application.

**D. The Identity of the Attorney Applicant:**

- The fee application forms require the attorney applicant to identify themselves as assigned counsel, public defender, or IDS contract counsel. (For civil cases, there is also an option for guardians ad litem.)

Check the “**assigned counsel**” box *if*:

- ✓ The attorney is a private attorney, and the attorney is submitting one fee application for one client pursuant to an individual appointment to represent that person; or
- ✓ The attorney is a private attorney and is submitting one fee application for several clients handled on a per session or per day basis pursuant to a fee arrangement that was pre-approved by IDS. To file a fee application for a per session or per day basis, the attorney should:
  - Enter one file number of one case from the session hearing in the file number box and attach the court docket to the fee application.

- If there is a session with no clients, create and enter an “R file” number for the session hearing (see the clerk for instructions on creating an “R file” number) and attach the court docket to the fee application.
- Submit the fee application as described at: <https://www.ncids.org/how-to-file-fee-apps-for-session-court-using-ecourts/>
- Check the “**public defender**” box *if*: The attorney is a salaried state employee who works in one of the district public defender offices, and the attorney are submitting the fee application solely for recoupment purposes (see Section IV. below).
- Check the “**IDS contract counsel**” box *if*: The attorney is a private attorney who handled the case pursuant to a contract with the IDS Office.

**E. Fee Applications Involving One Client with Multiple Cases:**

- General Rule: If an attorney represents one client in multiple cases, and all the cases are disposed of before the same Judge on the same day in the same court, the attorney should complete only one fee application for all of the cases.
- Exception: If an attorney was appointed to handle multiple cases involving the same client, and one or more of the cases arose out of a different transaction, was assigned to counsel at a different time, and resulted in an acquittal or was dismissed by the prosecution on the same day as the unrelated cases but *not* as part of a plea agreement in the unrelated cases, the attorney may complete a separate fee application for the acquitted or dismissed case that arose out of a different transaction.
- File Numbers: If the attorney is submitting one fee application for one client where there are multiple file numbers, the attorney should report the file number associated with the highest charge in the box labeled “File No.,” and should report any other file numbers in the box labeled “Additional File Nos.”
  - **OASIS Invoice**: For adult criminal cases at the trial level, the OASIS invoice only allows/requires a single File No., in OASIS when invoicing for a single fee app covering multiple cases enter only the file number associated with the highest charge, which is also the file number used to file the fee app in eCourts File and Serve.
- Non-Capital Criminal Dispositions:
  - ✓ In completing a fee application for one client with multiple cases, the attorney should view all of the cases disposed of together as a unit when reporting the original charge and the most serious disposition.
  - ✓ If the defendant pled guilty before trial to the most serious original charge, the most serious disposition should be reported as “Guilty Plea Before Trial: Most Serious Original Charge,” regardless of the disposition of the less serious charges.

Similarly, if the defendant was convicted at trial of the most serious original charge, the most serious disposition should be reported as “Trial: Guilty Most Serious Original Charge,” regardless of the disposition of the less serious charges.

- ✓ If, on the other hand, the defendant pled guilty before trial to anything *other* than the most serious original charge, the most serious disposition should be reported as “Guilty Plea Before Trial: Other Offense.”

**For Example:** If the attorney represented a client on a Class B and Class E felony, and both were disposed of together, the highest original charge should be reported as a Class B felony. If the Class B felony was dismissed, but the client pled guilty before trial to the Class E felony as charged, the most serious disposition should be reported as “Guilty Plea Before Trial: Other Offense.”

- Juvenile Delinquency Resolution of Charges:

- ✓ In completing a fee application for one juvenile with multiple cases, the attorney should view all of the cases disposed of together as a unit when reporting the original charge and the most serious resolution of charges.

- ✓ If the juvenile admitted to the most serious original charge, the most serious disposition should be reported as “Admission: Most Serious Original Charge,” regardless of the disposition of the less serious charges. Similarly, if the juvenile was adjudicated delinquent of the most serious original charge, the most serious disposition should be reported as “Adjudicatory Hearing: Responsible—Most Serious Original Charge,” regardless of the disposition of the less serious charges.

- ✓ If, on the other hand, the juvenile was adjudicated delinquent of an offense other than the most serious original charge, the most serious disposition should be reported as “Adjudicatory Hearing: Responsible—Other Offense.”

**For Example:** If the attorney represented a juvenile on a Class C felony and a Class F felony, and both were disposed of together, the highest original charge should be reported as a Class C felony. If the juvenile was found not responsible for the Class C felony, but the juvenile was adjudicated responsible for the Class F felony, the most serious disposition should be reported as “Adjudicatory Hearing: Responsible—Other Offense.”

**F. Grounds for Return: Non-Capital Criminal Case Fee Applications (AOC-CR-225):**

- All fee applications must be typed or printed legibly. Fee applications that are incomplete or illegible will be returned to the Clerk’s Office unpaid.
- Criminal fee applications that do not include the following information will be returned to the Clerk’s Office for completion or clarification:
  - ✓ Court
  - ✓ County

- ✓ File number(s) (if there are multiple file numbers, see Section I.E. above)
- ✓ Name and address of indigent client
- ✓ Social security number of indigent client or indication that s/he has no social security number or that the social security number could not be found despite reasonable efforts.
- ✓ Most serious original charge, including felony class (if applicable)
- ✓ Most serious disposition
- ✓ Missing, invalid, or incomplete Assignment of Counsel (AOC-CR-224) for any Class 3 Misdemeanor, including traffic
- ✓ Most serious judgment and sentencing
- ✓ Disposition date (if final fee)
- ✓ Beginning and ending dates for services rendered (even if the attorney is being paid pursuant to a flat fee schedule that has been pre-approved by IDS)
- ✓ Prior total fees and expenses allowed by a judge in the case (if applicable)
- ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court (unless the attorney is being paid pursuant to a flat fee schedule that has been pre-approved by IDS)
- ✓ Expense information (if applicable); if expenses exceed \$25 all receipts for all expenses must be provided
- ✓ The attorney's name, address, telephone number, and payee information
- ✓ The attorney's signature
- ✓ The amount of fees and expenses allowed by the judge setting the fee
- ✓ The name and signature of the judge setting the fee.
  - When using OASIS, the fee application served on IDS with a corresponding invoice may be paid prior to the judge signing the fee application. However, if the judge reduces the fee award before signing or refuses to sign the fee application the judge will notify the IDS CFO, and the attorney must refund any overpayment.

**G. Grounds for Return: Juvenile Delinquency Fee Applications (AOC-J-411):**

- All fee applications must be typed or printed legibly. Fee applications that are incomplete or illegible will be returned to the Clerk's Office unpaid
- Juvenile delinquency fee applications that do not include the following information will be returned to the Clerk's Office for completion or clarification:
  - ✓ County
  - ✓ File number(s) (if there are multiple file numbers, see Section I.E. above)
  - ✓ Name and address of indigent juvenile
  - ✓ Most serious original charge, including felony class (if applicable)
  - ✓ Most serious resolution of charges

- ✓ Most serious disposition
- ✓ Disposition date
- ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court (unless the attorney is being paid pursuant to a flat fee schedule that has been approved by IDS)
- ✓ Expense information (if applicable); if expenses exceed \$25 all receipts for all expenses must be provided
- ✓ The attorney's name, address, telephone number, and payee information
- ✓ The attorney's signature
- ✓ The amount of fees and expenses allowed by the judge setting the fee
- ✓ The name and signature of the judge setting the fee

**H. Grounds for Return: Civil Case Fee Applications (AOC-G-200):**

- IDS has the statutory authority to issue payment to an appointed guardian ad litem only in certain cases, see <https://www.ncids.org/resources/entitlement-to-and-payment-of-gals/>
- All fee applications must be typed or printed legibly. Fee applications that are incomplete or illegible will be returned to the Clerk's Office unpaid.
- Civil fee applications that do not include the following information will be returned to the Clerk's Office for completion or clarification:
  - ✓ Court
  - ✓ County
  - ✓ File number(s) (if there are multiple file numbers, see Section I.E. above)
  - ✓ Name of indigent client
  - ✓ Original proceeding (appointed attorney or guardian ad litem section)
  - ✓ Most serious disposition (appointed attorney or guardian ad litem section)
  - ✓ Disposition date (if final fee)
  - ✓ Beginning and ending dates for services rendered (even if the attorney is being paid pursuant to a flat fee schedule that has been pre-approved by IDS)
  - ✓ Prior total fees and expenses allowed by a judge in the case (if applicable)
  - ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court (unless the attorney is being paid pursuant to a flat fee schedule that has been approved by IDS)
  - ✓ Expense information (if applicable); if expenses exceed \$25 all receipts for all expenses must be provided
  - ✓ The attorney's or guardian ad litem's name, address, telephone number, and payee information
  - ✓ The attorney's or guardian ad litem's signature
  - ✓ The amount of fees and expenses allowed by the judge setting the fee

- ✓ The name and signature of the judge setting the fee

## **II. Standard Hourly Attorney Fees**

### **A. Standard Hourly Rates:** (See Section VII., below, for answers to frequently asked questions about the hourly rates)

- ✓ **Fees Set By District Court Judges:**
  - For all cases finally disposed in District Court where the most serious original charge was a non-potentially capital Class A through D felony and the fee was set on or after January 01, 2022, the rate is \$85 per hour.
  - For all other cases finally disposed in District Court, the rate will be \$65 per hour.
  - Any non-capital post-conviction claims brought in District Court should be paid at the same rates but based on the most serious conviction. For example, a non-capital post-conviction challenge to a misdemeanor conviction that is brought in District Court should be paid at the \$65 hourly rate.
- ✓ **Fees Set By Superior Court Judges:**
  - For all cases finally disposed in Superior Court where the most serious charge carries a sentence, or potential sentence, of life without parole (LWOP) and the fee was set on or after January 01, 2022, the rate is \$100 per hour.
  - For all cases finally disposed in Superior Court where the most serious original charge was Class B1-D felony, was a satellite-based monitoring “bring back” hearing, review of NGRI determinations, or non-capital, post-conviction case where the most serious charge was a Class A-D felony, the rate is \$85 per hour.
  - For all other cases finally disposed in Superior Court, including misdemeanor appeals, the rate is \$65 per hour.
  - Any non-capital post-conviction claims brought in Superior Court should be paid at the same rates but based on the most serious conviction. For example, a non-capital post-conviction challenge to a Class B felony conviction that is brought in Superior Court should be paid at the \$85 hourly rate if the date of final disposition is January 01, 2022, or later, but a non-capital post-conviction challenge to a Class E felony conviction that is brought in Superior Court should be paid at the \$65 hourly rate.
- ✓ **Fees Set By Clerks:**
  - For all cases finally disposed before a Clerk on or after January 01, 2022, the rate will be \$65 per hour.

- Pursuant to IDS Rule 1.9(a)(1b) and (a)(2), judges are asked to review the hours claimed on each fee application and to approve or reduce those hours on line 1 in Section II. of the fee application forms. Judges should make that determination based on the factors normally considered in setting attorney fees, such as the nature of the case, the experience of the lawyer, and the effort and responsibility involved. Once the judge has approved a certain amount of time, the fee should be calculated by multiplying the hours approved by the applicable hourly rate.
  - Judges are asked to notify the IDS Fiscal Officer [aaron.m.gallagher@nccourts.org](mailto:aaron.m.gallagher@nccourts.org) of any rejection or reduction of any fee award on any fee application, so that any OASIS overpayment made can be reimbursed to the state.
- Fee awards that are not set at the applicable standard hourly rate for the approved amount of time (or a pre-approved alternative rate pursuant to II.B. below) will be returned with a request that the amount be adjusted before payment is issued.

#### **B. Deviations from the Standard Rates:**

- Districts may utilize compensation systems other than IDS' standard hourly rates, such as per case fee schedules or per session rates, only with the prior written approval of the IDS Director. See IDS Rule 1.9(a)(5).

### **III. Reimbursable Expenses**

The following case-related expenses are reimbursable only under the specific circumstances described and if the judge setting the fee finds them to be necessary and reasonable. Attorneys may seek prior approval of expenses from a Judge before they are incurred to prevent having paid expenses that are not reimbursable.

#### **A. In-State Travel**

##### **Mileage Reimbursement Policy**

Mileage is reimbursable only under the following limited circumstances:

1. PAC Out-of-County Recruitment: When IDS or the Chief Public Defender has requested an attorney to take case(s) in a county where the attorney is *not* on the appointed counsel roster.

2. MAC Program Contracts: When mileage reimbursement has been explicitly included in a Managed Assigned Counsel (MAC) program agreement.
3. Case-Related Travel Outside the County of Appointment: Travel for case purposes—e.g., visiting a client in Central Prison or interviewing a witness in another county—is reimbursable at the IDS-approved rate and does not require separate pre-approval.

Mileage is not reimbursable:

- For travel within the county where the attorney’s office is located.

Except as provided in paragraphs III.A.1. or 2 above, for travel to, from, or within a county where the attorney is on the appointed counsel roster, regardless of whether that county is the same as where the office is located.

All reimbursable mileage must be listed on the fee application or time sheet, with the number of miles and purpose of travel clearly documented. Reimbursement is limited to the IDS-approved mileage rate. When pre-approval is required, documentation must be attached, or the claim will be denied.

See: [Expense Rates PAC](#)

## **Mileage FAQ**

### Mileage Reimbursement FAQ

Q1: Can I be reimbursed for driving to court in my home county? A: No. Mileage is not reimbursable for travel within the county where your office is located.

Q2: I’m on the roster in County A. Can I be reimbursed for travel to a hearing there? A: No. Mileage is not reimbursable for travel to, from, or within a county where you are on the appointed counsel roster.

Q3: I drove to Central Prison to visit a client appointed in another county. Can I be reimbursed? A: Yes. Mileage for case-related travel outside the county of appointment (e.g., client meetings or witness interviews) is reimbursable at the IDS-approved rate.

Q4: Do I need pre-approval for mileage related to an out-of-county witness interview? A: No, not if the travel is clearly case-related and documented. But if your situation is unusual, you may want to seek clarification from IDS.

Q5: I was recruited by IDS to take a case in a different district. Is mileage reimbursable? A: Yes, if you're not on the roster for that district and IDS recruited you for the case.

Q6: What happens if I forget to attach pre-approval documentation when it's required? A: The mileage claim will be denied. Pre-approval is mandatory when required by policy.

**Meals:**

Meals are only reimbursable if there is an overnight stay and then in accordance with the current IDS authorized per diem, which is inclusive of gratuity, with one per diem per overnight stay. Receipts are not required. For current per diem rates see: <https://www.ncids.org/counsel-rates/> ("Expense Rates PAC").

**Lodging:**

The actual cost of overnight hotel lodging is reimbursable, not to exceed the current IDS authorized rate, plus actual taxes incurred. A valid hotel receipt is required, and credit card statements will not be accepted. For current lodging rates see: <https://www.ncids.org/counsel-rates/> ("Expense Rates PAC").

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For lodging in an establishment that is being rented out by a third party, which may include, yet is not limited to, online website house or room rental services, such as AirBnB, the actual cost of over-night lodging is reimbursable, not to exceed the current IDS authorized rate, plus actual taxes incurred. The actual taxes incurred must be specifically documented on an itemized receipt). Any other itemized fees, such as cleaning fees, are only reimbursable to the extent that they do not exceed the current lodging rate when amortized across nights. If booking for purposes of hosting multiple defense team members (e.g., for a trial), seek pre-approval from the presiding judge.

Third party lodging agreements are not allowed among family members or where such agreements or payments create a financial conflict of interest.

**B. Out-Of-State Travel:** Attorneys must obtain prior written approval from a judge (or for MAC attorneys, an IDS Regional Defender) before incurring out-of-state travel expenses, this

approval documentation may be an informal email and must be attached to the fee application.

- **Travel Costs:** Reasonable travel costs, including parking fees and tolls, are reimbursable with receipts. Fines for traffic and parking violations are the responsibility of the attorney and are not reimbursable by the state.
- **Meals:** Meals are only reimbursable if there is an overnight stay and then in accordance with the current IDS authorized per diem, which is inclusive of gratuity, with one per diem per overnight stay. Receipts are not required. For current per diem rates see: <https://www.ncids.org/counsel-rates/> (“Expense Rates PAC”).
- **Lodging:** The actual cost of overnight lodging is reimbursable, not to exceed the current IDS authorized rate, plus actual taxes incurred. A valid hotel receipt is required, and credit card receipts will not be accepted. For current lodging rates see: <https://www.ncids.org/counsel-rates/> (“Expense Rates PAC”).
  - AirBnB and other similar services can be reimbursed when total costs are at or below the allowed lodging rates. Note that non-tax hidden fees (cleaning fees, etc.) must be included in the calculation for the maximum nightly lodging rate. If an AirBnB is to be booked for purposes of hosting multiple defense team members (e.g., for a trial), seek pre-approval from the presiding judge.

### C. Photocopying:

- **In-house** copying costs are reimbursable at a rate not to exceed \$0.10 per page for single-sided copies and \$0.16 per page for double-sided copies. The applicant must indicate the number of copies prepared and whether they were single or double-sided on the fee application.
  - ✓ When invoicing **in-house** copies in OASIS the invoice will calculate \$0.10 per page for single-sided copies and \$0.16 for double-sided copies.
- **Out-of-house copies** are reimbursable as an “other expense.” IDS will reimburse an attorney for the actual cost of black and white out-of-house copies with an itemized receipt from the vendor who created the copies. The receipt must be attached to the fee application and credit card statements will not be accepted. When invoicing for out-of-house copies in OASIS use the “other expenses” box. The receipts for the copies must be attached to the fee application. Color copies are not reimbursable.

**D. Printing Digital Discovery:**

- If counsel receives discovery in an electronic format, counsel may print any documents that will be entered into evidence or used in examining witnesses, or when a hard copy is otherwise necessary to prepare the case. However, absent extraordinary circumstances, IDS will not reimburse counsel for printing one or more copies of the entire discovery package.
- This limitation does not apply if the only way to satisfy a client’s request for discovery is for counsel to print the entire discovery package for the client.
- IDS will not reimburse counsel for printing a copy of the entire discovery package for an investigator.

**E. Digital Storage CDs/DVDs/USB Flash Drives:**

- The cost of blank CDs, DVDs, or USB Flash Drives used exclusively for storage of digital discovery for appointed cases is reimbursable at a rate not to exceed \$1.00 each for CDs, DVDs, and \$30 for USB Flash Drives. External hard drives are reimbursable up to \$75.00. Receipts for all digital storage devices claimed for reimbursement must be attached to the fee application.

**F. Online Video Conferencing with Clients in Jail:**

IDS will reimburse an attorney for actual expenses incurred in utilizing an online video conferencing system to meet with appointed clients who are in the custody of a local jail, at a rate not to exceed \$.65 per minute. Counsel must attach to the fee application a receipt from the company that runs the video conferencing system.

For information on direct billing of IDS for appointed cases using JurisLink and iWebVisit in lieu of reimbursement see <https://www.ncids.org/emergency-teleconference-policy/>.

**G. Paralegal or Legal Assistant Time:**

- If the judge setting the fee finds it to be necessary and reasonable, IDS will compensate an attorney as a reimbursable expense for the time of an **in-house** paralegal or legal assistant at a rate of \$15 per hour. The total cost of the paralegal’s time should be reported in the field on the fee application form that is labeled “Other (attach receipts if > \$25).” The fee application must be accompanied by an itemized

billing record setting forth the paralegal's or legal assistant's time (see p. 7-8). Paralegal or legal assistant services will only be reimbursed if they are directly related to a specific appointed case file, documented in the itemized billing record, and will not be reimbursed if they involve routine administrative office tasks.

#### H. Providing Closed Client Files:

- If a client requests their file at the conclusion of the representation or any time thereafter, IDS generally will not compensate an appointed attorney for time spent scanning or preparing copies of an original paper file or reimburse an appointed attorney for scanning or copying expenses.
- However, if the attorney received documents in the client's file in electronic format and never created a paper copy, IDS will reimburse an appointed attorney for expenses associated with preparing a paper copy from the electronic media to provide to an incarcerated client who is requesting those documents.
- IDS will compensate an appointed attorney for time spent retrieving a former client's file from storage and for other reasonable time spent responding to a client's request for their file and will reimburse an attorney for postage expenses with a receipt.
- IDS will not seek recoupment of these expenses.
- IDS does not advise attorneys about the Rules of Professional Conduct, nor about the obligation to the client to provide closed files. Attorneys are directed to contact the NC State Bar directly at 919-828-4620 or electronically via <https://www.ncbar.gov/for-lawyers/ethics/>.

#### I. Other Expenses:

- For all "other" expenses specifically used for appointed representation of an individual client that cumulatively total \$25.00 or more (*e.g.*, out-of-house copies, parking, postage, client court hearing clothing, etc.), an applicant must attach all receipts for all expenses or supporting documentation to the fee application. If "other expenses" do not cumulatively exceed \$25.00, receipts or supporting documentation are not required to be attached to the fee application. **However, all receipts for all amounts claimed for reimbursement, including those that do not cumulatively total \$25.00, must be maintained by the attorney for 5 years and must be made available to IDS upon request, for audit purposes.**
- Client court clothing: If it is necessary to provide clothing appropriate for a court hearing for an appointed client the appointed attorney should first check with the local Public Defender's office to determine whether appropriate clothing is available. If there is no local Public Defender's office, or if the local Public Defender's office does

not have appropriate clothing available, the appointed attorney should contact the IDS Fiscal Officer, ([aaron.m.gallagher@nccourts.org](mailto:aaron.m.gallagher@nccourts.org)), to obtain pre-approval for clothing reimbursement.

- No person may be paid for any services rendered other than the appointed attorney (or law firm), an in-house paralegal (see Section G), or an expert or investigator approved by the court (see Section V). No payment will be issued to a subcontractor, assistant, or other person whose services are listed as an expense.
- Normal Overhead operating expenses, including but not limited to, notebooks, paper, wi-fi, push pins, computers, external hard drives (that are not used exclusively for a single appointed client), copy machines, pens, etc., are not reimbursable. If you have a question about whether an expense is reimbursable contact [aaron.m.gallagher@nccourts.org](mailto:aaron.m.gallagher@nccourts.org).

#### **IV. Recoupment: Findings of Fact and Civil Judgments for Attorney Fees**

##### **A. Non-Capital Criminal Cases at the Trial Level (AOC-CR-225):**

- The back of form AOC-CR-225 is designed to facilitate the entry of civil judgments against a defendant who has been convicted or pled guilty or nolo contendere pursuant to G.S. 7A-455 (attorney fees) and G.S. 7A-455.1 (\$75 attorney appointment fee).<sup>2</sup>
- If the Judge signs Section IV. of form AOC-CR-225 and does not check any of the boxes in Section III under Judgment #1 or Judgment #2, the Judge has entered judgments for the total amount of attorney fees and the \$75 attorney appointment fee.
- If the Judge determines that a judgment is not appropriate for attorney fees and/or the \$75 attorney appointment fee, the appropriate “opt out” box must be checked under Judgment #1 and/or Judgment #2.
- When completing this fee application, attorneys must provide the name, address, and social security number of the defendant at the top of form AOC-CR-225. If the client either has no social security number or the attorney is unable to obtain the client’s social security number despite reasonable efforts, the attorney must check the appropriate box on the fee application.

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<sup>2</sup> A separate memorandum has been distributed to court officials concerning the implementation of G.S. 7A-455.1, as revised by Session Law 2005-250, which provides for a \$60 attorney appointment fee in criminal cases.

**B. Juvenile Delinquency Cases at the Trial Level (AOC-J-411):**

- The back of form AOC-J-411 is designed to allow the Judge to enter a civil judgment against a responsible parent or guardian for the value of legal services provided to a juvenile in a delinquency proceeding.
- Pursuant to G.S. 7A-450.1 through -450.4 and G.S. 7B-2000, the Judge has discretionary authority to enter a judgment against a responsible person if the juvenile was adjudicated delinquent. In deciding whether to enter judgment, the Judge should consider the factors set forth in G.S. 7A-450.3.
- When completing this fee application, attorneys must provide the name, address, and social security number of any potentially responsible parent or guardian on the form AOC-J-411 or check the box indicating that the attorney is unable to obtain the client's social security number despite reasonable efforts.

**C. Civil Cases at the Trial Level (AOC-G-200):**

- The back of form AOC-G-200 is designed to allow the Judge to enter a civil judgment against either a respondent or a responsible parent or guardian in certain types of proceedings.
- Pursuant to G.S. 7A-450.1 through -450.4 and G.S. 7B-603, the Judge has discretionary authority to enter a civil judgment against the respondent for the value of attorney services provided to the respondent in the following types of cases: 1) abuse, neglect, or dependency cases in which the child was found to have been abused, neglected, or dependent; and 2) termination of parental rights proceedings in which the parent's rights were terminated. In deciding whether to enter judgment against the respondent, the Judge should consider the factors set forth in G.S. 7A-450.3.
- Pursuant to G.S. 7A-455, the Judge may also enter a civil judgment against a respondent who has been held in criminal contempt in a child support contempt proceeding.
- When completing this fee application, attorneys must provide the name, address, and social security number of the respondent or any potentially responsible parent or guardian on the form AOC-G-200 or check the box indicating that the attorney is unable to obtain the client's social security number despite reasonable efforts.

**D. Fee Applications Submitted by Public Defenders or IDS Contract Counsel:**

- When a fee application is submitted by a public defender or IDS contract counsel solely for recoupment purposes, the Court should fix the value of services rendered based on the same hourly rates outlined in Section II., above, and enter civil

judgment(s) as appropriate. In those cases, the Clerk should docket the judgment(s) as provided by law and file the fee application in the court file. Fee applications that are submitted by public defenders and IDS contract counsel should not be forwarded to IDS Financial Services for payment.

## V. Expert and Support Services

### A. Expert Fees:

- *Attorneys should never pay an expert with their own funds and then seek reimbursement.*
- Prior authorization is required for the use of any expert services. That authorization must be sought by the attorney for the defendant or respondent completing and submitting form AOC-G-309, along with a supporting motion, to the presiding judge. If permitted by case law, the attorney for the defendant or respondent may submit that form and the supporting motion *ex parte*. The requesting attorney does not need to complete form AOC-G-309 for non-expert flat fee services, such as polygraph examinations (For defense requested polygraph examinations that are preapproved by a judge, IDS pays a flat fee of \$750.00), medical procedures, lab testing, or defense requested sentencing plans; to seek prior approval for such services, the attorney should submit a motion and proposed Order to the Court.
- Form AOC-G-309 sets forth a standardized hourly rate schedule for different types of experts, and also serves as the vehicle for the expert to seek payment. Form AOC-CR-309, with both sides completed and accompanied by timesheets and receipts as set out by IDS expert policy guidance, should be sent to IDS via mail or fax or, if sent securely, via email to [judicial.ids.experts@nccourts.org](mailto:judicial.ids.experts@nccourts.org). **Ensure that the maximum amount is authorized by the judge on the line in Part II of Form AOC-CR-309; IDS cannot pay if that line is left blank.**
- In extraordinary circumstances, the IDS Director may grant deviations from the standardized base compensation rates listed on form AOC-G-309 when the requesting attorney demonstrates that they are necessary and appropriate based on case-specific needs and the following policies:
  - ✓ Deviations may be granted if the requested expert services are in a new, emerging, or novel area and there are a limited number of experts in the field.
  - ✓ Deviations may be granted if the requested expert services are so unique that there are a limited number of available and qualified experts. For example, there is only one expert who can provide the needed services (*e.g.*, the medical

examiner who performed the autopsy) and he or she has refused to provide the services at the applicable standardized rate.

- ✓ Deviations may be granted based on other exceptional circumstances that justify a deviation from the standardized rates. For example, counsel needs the services of a specific type of expert and has contacted five or more experts in that field and none of the contacted experts were willing and available to provide the needed services at the needed time at the standardized rate.
- Deviations shall be requested by the attorney of record by completing form AOC-G-310 and submitting it to the IDS Director pursuant to the instructions on that form. Before requesting a deviation from the standardized base hourly rates, counsel must consult with IDS' Forensic Resource Counsel to identify other similar experts in the required field.
- See *Policies for Experts and Investigators* <https://www.ncids.org/ids-policies-and-rules/>.

#### **B. Lay Witness Fees:**

- Compensation for the time and expenses of lay witnesses is governed by G.S. 7A-314(a)-(c) & (e). Those provisions set statutory allowances for the time, mileage, lodging, and meals for lay witnesses.
- If lodging and/or airfare is required for an indigent lay witness, a booking by the IDS travel agency can be requested by sending a lay witness travel request form (found at <https://www.ncids.org/forms/travel-request-form-witnesses-and-attorneys/>) to Max Silva at Maxwell.G.Silva2@nccourts.org. That form must be signed by the judge if the witness is from out of state; if the witness is in-state, they must be subpoenaed.
- If the attorney seeking compensation for one or more lay witnesses in any category of case, the attorney should complete one form AOC-CR-235 ("Witness Attendance Certificate") per witness and submit it to the Clerk or Judge as required by G.S. 7A-314. The attorney should then send all signed AOC-CR-235 forms, along with a completed Side Two of form AOC-CR-382 ("Certification of Identity (Witness Attendance)") with payee info for all lay witnesses, and submit it to NCAOC Accounts Payable (via email to [AccountsPayable@nccourts.org](mailto:AccountsPayable@nccourts.org) if sent securely).

**C. Foreign Language Interpreters:**

- If an attorney needs the services of a foreign language interpreter or translator in any category of case, he or she should obtain prior authorization from the Court. For details about obtaining an out-of-court interpreter or translator, see the IDS policy on out-of-court foreign language interpreters and translators, *available at* <https://www.ncids.org/ids-policies-and-rules/> under the “Language Services” link.

**D. Interpreters for Deaf Persons:**

- G.S. 8B-2, 8B-6, and 8B-8 (1999) govern the appointment and compensation of interpreters for deaf persons.
- If the attorney needs the services of a sign language interpreter in any category of case, the attorney should obtain prior authorization from the Court using AOC-G-116 (“Motion, Appointment And Order Authorizing Payment Of Deaf Interpreter Or Other Accommodation”). The interpreter can then seek payment from the Clerk using that same form.

**VI. Clerk Responsibilities**

**A. Fee Awards Must be Sent to IDS by the Clerk’s Office:**

- IDS Financial Services will only accept completed appointed attorney fee applications from the Clerk of Superior Court in the county where the case originated.
- Fee applications for Juvenile, Parent Defense, Session Court/Attorney for the Day, Special Proceeding, and Civil, are tasked to IDS via the appropriate Task Queue for cases.
- Adult criminal fee applications at the trial level must be appropriately eFiled and Served on [OASIS@nccourts.org](mailto:OASIS@nccourts.org), be electronically served on IDS via eCourts File and Serve, and a corresponding invoice must be submitted in OASIS immediately following electronic submission of the fee app. See <https://www.ncids.org/oasis/>
- Fee applications that are mailed or emailed to IDS Financial Services directly by appointed attorneys cannot be processed and will not be paid.

- B. Timing of Attorney Payments** Information about the timing of attorney payments, including check run dates, is posted at <https://www.ncids.org/get-paid/payment-dates/>.

If attorneys or court officials have additional questions or concerns about these policies or other billing matters, they should contact Chad Boykin, IDS Assistant General Counsel, at (919) 890-2128 or [Chadwick.E.Boykin@nccourts.org](mailto:Chadwick.E.Boykin@nccourts.org) or Whitney Bishop Fairbanks, IDS Assistant Director and General Counsel at (919) 354-7200 or [Whitney.B.Fairbanks@nccourts.org](mailto:Whitney.B.Fairbanks@nccourts.org).