IDS OFFICE OF INDIGENT DEFENSE SERVICES
SAFEGUARDING JUSTICE

MEMORANDUM

To: Indigent Defense Attorneys, Public Defenders
Cc: District and Superior Court Judges, Clerks of Superior Court
Re: IDS Policies Governing Attorney Fee and Expense Applications in Potentially Capital Cases at the Trial Level, Appeals, and Capital Post-Conviction Cases
From: Office of Indigent Defense Services
Date: Updated October 21, 2026

Pursuant to G.S. 7A-452, G.S. 7A-454, G.S. 7A-458, G.S. 7A-498.3(c) and (d), and G.S. 7A-498.5(f), the Office of Indigent Defense Services ("IDS") hereby adopts the following policies and procedures, which shall govern fee applications that are submitted directly to the IDS Office in potentially capital cases at the trial level, all appeals, and capital post-conviction proceedings.

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I. The Attorney Fee and Expense Application:

Attorney fee applications that are directed to the IDS Office should be comprised of four parts: 1) one copy of the appropriate AOC-CR fee application form; 2) one copy of itemized time sheets; 3) any receipts or supporting documentation required by Section V., below; and 4) any addendum or checklist required by Section I.E., below.

A. The Capital Case Application Form:

For private attorneys to request compensation from the IDS Office in homicide cases at the trial level (other than second-degree murder cases and cases in which the defendant was under 18 years of age at the time of the offense), as well as capital appeals and capital post-conviction proceedings, they must use the following fee application form, available at www.ncids.org.[1]

- AOC-CR-425 (Capital Case Fee Application, Rev. 12/20): An applicant must complete this form in potentially capital cases at the trial level, capital appeals, and capital post-conviction proceedings, and submit it directly to the IDS Office.

If an attorney who was appointed by the Office of the Capital Defender in a potentially capital case at the trial level, by the Office of the Appellate Defender in a capital appeal, or by the IDS Office in a capital post-conviction proceeding submits the wrong fee application form to the presiding judge in violation of this policy, the IDS Financial Services Office will redirect that fee application to the central IDS Office without payment. If the Court ordered a lower hourly rate than is described elsewhere in this policy and a civil judgment has been docketed against the client, the IDS Office may award the hourly rate that was applied in the Court's original Order.

B. The Non-Capital Appeal Fee Application Form:

For private attorneys to request compensation from the IDS Office in non-capital and non-criminal appeals, they must use the following fee application form, available at www.ncids.org:

- AOC-CR-426 (Non-Capital Criminal or Non-Criminal Appeals Fee Application, Rev. 12/20): An applicant must complete this form for payment in non-capital criminal or non-criminal appeals, and submit it directly to the IDS Office.

C. The Itemized Time Sheets:

1. An applicant must attach to his or her fee application itemized time sheets that provide sufficient detail regarding counsel's services in the case to demonstrate that the claim for compensation is reasonable.

[1]An applicant seeking compensation for a non-capital criminal case at the trial level should complete AOC-CR-225, and submit it to the presiding district or superior court judge. An applicant seeking compensation for a juvenile delinquency case at the trial level should complete AOC-J-411, and submit it to the presiding district court judge. An applicant seeking compensation for a civil case at the trial level should complete AOC-G-200, and submit it to the presiding district or superior court judge.

2. Time sheets are not expected to include exhaustive detail, and attorneys should redact confidential information and work product. However, time sheets must include meaningful details about the quantity and quality of services rendered. At a minimum, time sheets must reflect attorney time broken down according to date, description of activity (ex., "reviewed 2,000 pages of written discovery, 5 hours of body worn camera footage"), and amount of time in tenths of an hour.
3. Time sheets that are insufficiently detailed, that include generic descriptions such as "review file," "review discovery," or "trial preparation" without additional details, or that report time spent on multiple activities in large aggregated blocks will be returned to counsel unpaid with a request for clarification.
4. In all potentially capital cases that proceed to a capital or non-capital jury trial, if an attorney submits one fee application form that covers services rendered before and during trial, the attorney must attach two separate itemized time sheets—one time sheet that covers all services rendered before the date that jury selection began and a separate time sheet that covers all services rendered after the date that jury selection began.
5. Time sheets must be computer generated. Handwritten time sheets will not be accepted.

D. The Attached Receipts:

See Section V. below.

E. Fee Application Addendums:

1. Racial Justice Act Addendum: Potentially Capital Cases at the Trial Level, Capital Appeals, and Capital Post-Conviction Proceedings:

a. Effective October 30, 2009, appointed counsel in a potentially capital case at the trial level, capital appeal, or capital post-conviction case must submit an addendum to any fee application that includes time associated with the Racial Justice Act ("RJA") on form IDS-031 (Rev. 08/12), *available at* www.ncids.org.

b. If counsel fails to submit that form with a fee application that includes RJA time, the fee application will be returned to counsel unpaid. Time should only be attributed to the RJA if counsel would not have done the work but for the enactment of the RJA. If counsel would have spent the same time in the investigation or preparation of a constitutional race-based claim, the time should not be attributed to the RJA.

2. Case Status Addendum: Potentially Capital Cases at the Trial Level:

a. For all potentially capital cases at the trial level where the warrant was served on or after January 1, 2011 **or** the attorney was appointed on or after May 2, 2011, appointed counsel must submit an addendum to every fee application on form IDS-037 (Rev. 1/15). The form addendum is available at www.ncids.org and captures additional information that the IDS Office needs to process fee applications, including information that will enable the IDS Office to determine the appropriate hourly rate for various dates of work. *See* Section II.A.2., below.

b. If counsel fails to submit that form with a fee application in any potentially

capital case at the trial level where the warrant was served on or after January 1, 2011, the fee application will be returned to counsel unpaid.

3. Checklist for Appellate Fee Applications:
Effective for fee applications that are received at the IDS Office on or after May 1, 2010, appointed appellate counsel shall attach to every fee application in a non-capital criminal and non-criminal appeal the checklist that is posted on the IDS website entitled "Checklist for Appellate Fee Application Submission (All Non-Capital Appeals)."

F. Fee Application Deadlines:

1. Attorneys should consult IDS Rules 2A.4(a), 2B.3(a), 2C.3(a), and 3.3(b) for deadlines on the submission of final fee applications in potentially capital cases at the trial level, appeals, and capital post-conviction cases.

2. Fee applications for capital cases and capital appeals must be submitted annually. Final attorney fee applications must be signed by the appointed attorney and submitted to the IDS Director within no more than one year after the date on which the case was finally disposed at that phase.

3. For direct appeals to the Appellate Division, the one-year deadline begins to run on the "appeal closed date," which means one of the following:

a. the date of the court ruling that ended the current appeal (*i.e.*, a final ruling on the merits; a ruling dismissing the appeal; a ruling declaring the appeal moot; the denial of a petition for discretionary review ("PDR") or an extraordinary writ; or a dismissal because the client died);

b. the date on which counsel was permitted to withdraw because the client or a third party retained counsel for the client; or

c. the date on which counsel filed notice that the appeal had been withdrawn (in a criminal case) or the date the appellate court granted a withdrawal of the appeal (in a civil case after a record has been filed).

For purposes of this policy, the date of the denial of a PDR or extraordinary writ means the ruling date shown on the online docket of the Supreme Court of North Carolina, not the date on which the ruling is posted on the Court's website, the date the Court mails or emails a formal notice of the ruling to counsel, or the date on the formal notice reflecting a certification by the Clerk of Court. If no party files a PDR, the one-year deadline begins to run when the time for filing a PDR (usually 35 days after the opinion is filed) expires.

4. 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 the IDS Rules cited above and the IDS Policy, Extensions and Waivers of Appointed Attorney Fee Application Deadlines, *available at* www.ncids.org.

G. Grounds for Return: Fee Applications in Potentially Capital Cases at the Trial Level, Capital Cases on Direct Appeal, and Capital Post-Conviction Cases (AOC-CR-425), and Non-Capital Criminal or Non-Criminal Appeals (AOC-CR-426):

1. All fee applications must be typed or printed legibly. Fee applications that are

illegible will be returned to the attorney unpaid.

2. Fee applications that do not include the following information will be returned to the attorney for completion or clarification:

- ✓ Court
- ✓ County
- ✓ File number(s)
- ✓ Name and address of indigent client
- ✓ Social security number of indigent client or indication that s/he has no social security number (if you cannot determine the client's social security number after reasonable efforts, write "unknown")
- ✓ Nature of Proceeding and Case Status/Type of Disposition (AOC-CR-425), or Most Serious Conviction or Proceeding that was Appealed (AOC-CR-426)
- ✓ Disposition Date and Name of Presiding Judge (if final fee on AOC-CR-425), or Name of Presiding Judge at the Trial Level, Date of Opinion, and Result on Appeal (if final fee on AOC-CR-426)
- ✓ Start and end dates of attached time sheets
- ✓ Prior total fees and expenses allowed by IDS in this case (if applicable)
- ✓ Total time claimed, as well as total time broken down into time in court, time waiting, and time out of court
- ✓ Expense information and receipts (if applicable)
- ✓ The attorney's name, address, telephone number, and taxpayer identification number
- ✓ The attorney's signature

3. Fee applications that are submitted without the appropriate addendum required by Section I.E., above, will be returned to counsel unpaid.

II. Standard Hourly Attorney Fees:

A. Potentially Capital Cases at the Trial Level:

1. For the hourly rates applicable to provisional counsel and trial counsel in potentially capital and capital cases at the trial level see "Current Hourly Assigned Counsel Rates" at: https://www.ncids.org/counsel-rates/

2. A trial-level capital case is considered capital or potentially capital if it began as a first-degree murder charge or charge of murder where the degree is undesignated, except cases in which the defendant was under 18 years of age at the time of the offense. See Rules of the Commission on Indigent Defense Services, Rule 2A.1(a).

B. Capital Cases on Appeal and in Post-Conviction:

1. Capital Cases on Direct Appeal:

a. For the hourly rates applicable to capital cases on direct appeal see "Current Hourly Assigned Counsel Rates" at: https://www.ncids.org/counsel-rates/

b. An appellate case is considered "capital" only if it is the direct appeal of an actual sentence of death.

2. Capital Post-Conviction Cases:

a. For the hourly rates applicable to capital post-conviction cases see "Current Hourly Assigned Counsel Rates" at: https://www.ncids.org/counsel-rates/

b. A post-conviction case is considered "capital" only if the defendant is under an actual sentence of death.

C. Non-Capital Criminal and Non-Criminal Appeals:

1. For the hourly rates applicable to non-capital criminal and non-criminal direct appeals to the Appellate Division see "Current Hourly Assigned Counsel Rates" at: https://www.ncids.org/counsel-rates/

2. IDS will compensate an attorney for time spent preparing a petition for discretionary review ("PDR") or notice of appeal based on a substantial constitutional question ("NOA"). The maximum amount of time that will be compensated for preparing and filing a PDR or NOA is 10 hours.

D. Miscellaneous:

1. Absent exceptional circumstances that warrant personal delivery, IDS will not pay an attorney for time associated with traveling to a court in another county for the sole purpose of hand-delivering or filing a document. If exceptional circumstances exist, counsel must attach to the fee application a brief explanation of those circumstances.

2. IDS will not compensate an attorney for time spent preparing a fee application. However, IDS will compensate an attorney who has been appointed to a criminal or non-criminal direct appeal to the Appellate Division for reasonable time spent preparing the "Checklist for Submission of Appellate Fee Applications" and the "Expert Testimony Categories for Transcript Submission by Appellate Counsel" forms.

III. Attorney Billing Requirement and Deadline:

A. Capital Cases & Capital Post Conviction Cases:

1. Annual Billing Required:

An attorney must submit at least one fee application annually in capital cases and capital post-conviction cases.

2. Final Fee:

The final fee application must be submitted within one year of the final disposition of the capital case, or the appeal closed date in capital post-conviction cases, see Section I, F.3.

B. Interim Fees:

1. **Non-Capital and Non-Criminal Appeals:**

Absent exceptional circumstances, the IDS Office will only process interim attorney fee requests in non-capital appeals when one of the following two conditions has been met: 1) the transcript is 1,500 or more pages and the settled record on appeal has been filed; or 2) the appellant's brief has been filed.

C. Final Fees:

1. **Non-Capital Appeals:**
The final fee application in a non-capital appeal should be submitted after the Court of Appeals issues a decision, or the Supreme Court denies discretionary review or dismisses the notice of appeal, whichever occurs later. (If the Supreme Court allows review, the attorney may submit an interim fee application at that time and again after the new brief is filed in the Supreme Court.)

IV. Scope of Representation in Potentially Capital Cases at the Trial Level— Related Civil Suits Against a Capital Defendant:

A. General Rule:
A defendant charged with a potentially capital offense is not entitled to appointed counsel to represent him or her in a related civil suit, such as a wrongful death claim. Thus, other than the exception noted in IV.B., below, IDS will not compensate appointed counsel for work or expenses associated with a civil suit.

B. Exception:
Because a related civil suit may directly impact the pending criminal litigation, IDS will compensate appointed counsel in the criminal case for a small amount of work in a related civil case, not to exceed 10 hours without prior authorization. Such work may include consulting with the defendant and his or her civil attorney about the civil suit, discussing with the defendant and his or her civil attorney the impact of civil discovery or settlement on the criminal case, and filing and arguing a motion to stay the civil proceedings. Such work may not include drafting discovery documents or preparing for depositions in the civil case. In an extraordinary case and with advance written approval from the IDS Director, IDS may compensate appointed counsel for a reasonable amount of additional time, including time spent participating as criminal counsel in a mediation. These services

will not be reimbursed on interim bills, and can only be claimed as part of the attorney's final fee application in a case.

V. Reimbursable Expenses:

A. Prior Approval Not Required:
The following necessary expenses are reimbursable without prior approval from the IDS Office. If exceptional circumstances warrant the expenditure of higher amounts, the applicant should seek pre-approval from the IDS Office before incurring the expense.

1. In-State Travel[2]:

a. Mileage on Privately-Owned Vehicles: The mileage rate is $.625 per mile for travel on or after September 01, 2022. For travel prior to September 01, 2022, the mileage rate of $0.50 per mile applies. Mileage is reimbursable only for travel outside of the county of the attorney's office. Travel within the county of the attorney's office is not reimbursable. The attorney's fee application or time sheets must indicate the number of miles traveled.

b. Rental Vehicles: If you choose to rent a vehicle for case-related travel, you will be reimbursed for the lesser of the following: 1) the cost of the rental vehicle plus gasoline; or 2) the mileage reimbursement you would have received if you had driven your personal vehicle. You must attach a receipt to be reimbursed for rental car expenses.

c. Meals: Meals are only reimbursable if there is an overnight stay and then in accordance with the current state authorized per diem, with one per diem per overnight stay. Receipts are not required. For current per diem rates see: https://www.ncids.org/counsel-rates/ ("Expense Reimbursement Rates").

d. Lodging: The actual cost of over-night lodging is reimbursable, not to exceed the current state authorized rate, plus actual taxes incurred. A valid hotel receipt is required, and credit card receipts will not be accepted. For For current lodging rates see: https://www.ncids.org/counsel-rates/ ("Expense Reimbursement Rates").

e. Other: Any other travel-related expenses (e.g., parking) must be supported by receipts or, in appropriate circumstances, documentation.

2. Long-Distance Telephone Calls:

The actual cost of case-related long-distance telephone calls will be reimbursed only if supporting phone bills are submitted.

3. Printing Transcripts:

Now that the Supreme Court of North Carolina has approved revised Rules of Appellate Procedure that direct court reporters to deliver transcripts to appellate counsel in electronic format, IDS will reimburse counsel for printing one original of the transcript at a rate not to exceed $0.10 per single-sided page or a rate not to exceed $0.16 per double-sided page. The applicant must indicate the number of transcript pages printed, whether they were single or double-sided, and the price charged per page. The actual cost of out-of-house printing is reimbursable with a receipt or documentation on the number of pages printed and the amount paid per page, at a rate not to exceed $0.10 per single-sided page or $0.16 per double-sided page. *See* Section V.A.13(b), below, for the policy on printing or copying transcripts for clients.

4. Printing Digital Discovery:

Effective September 24, 2013, 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. If counsel chooses to print one or more copies of the entire discovery package, counsel must attach to his or her fee application a written explanation of the extraordinary circumstances involved. 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. In no event will IDS reimburse counsel for printing a copy of the entire discovery package for an investigator.

5. Photo-Copying/Single-Source Record Production:

a. Black and White Copies:

In-house copying costs are reimbursable at a rate not to exceed $0.10 per page for single-sided copies or a rate not to exceed $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.

The actual cost black and white copies purchased by a vendor is reimbursable with a receipt from the vendor that includes the number of copies prepared and the amount paid per page.

- Reimbursable Client Copies in all Cases on Appeal:
  In capital and non-capital cases, IDS will reimburse the appellate attorney for the cost of providing to the client a copy of the settled record on appeal, appellate briefs, and opinion.
- Other Client Copies in Capital Cases on Direct Appeal:
  In capital cases, IDS will reimburse the appellate attorney for the cost of providing to the client a copy of the transcript of trial proceedings during the pendency of the appeal. Absent exceptional circumstances and prior approval, IDS will not reimburse the appellate attorney for the cost of providing to the client a copy of the court file.
- Other Client Copies in Non-Capital Cases on Appeal:
  In non-capital cases, absent exceptional circumstances and prior approval, IDS will not reimburse the appellate attorney for the cost of providing to the client a copy of the court file or transcript during the pendency of the appeal. Once the appeal is complete, the original file and transcript belong to the client. (In the rare case where the attorney of record and Appellate Defender agree that an *Anders* brief is appropriate, the appellate attorney will be reimbursed for providing the client with an advance copy of the transcript in compliance with *Anders*.)

b. Color Copies:

In-house color copying costs are reimbursable at a rate not to exceed $1.00 per page. The applicant must indicate the number of copies prepared and the price charged per page. The actual cost of out-of-house color copies are reimbursable with a receipt or documentation on the number of copies prepared and the amount paid per page, at a rate not to exceed $1.00 per page. Because of the high costs associated with producing color copies, counsel should only produce color copies if they are truly necessary for the defense of the case.

c. Single-Source Record Production:

Copies of records that are only available from one source, such as records that must be obtained from a hospital or a state or county agency, will be reimbursed at the rate charged by the provider as long as a receipt is attached.

6. Scanning:

In-house scanning costs are reimbursable at a rate not to exceed $0.10 per page. The applicant must indicate the number of pages scanned and the price charged per page. The actual cost of out-of-house scanning is reimbursable with a receipt or documentation on the number of pages scanned and the amount paid per page, at a rate not to exceed $0.10 per page.

7. Facsimiles:

a. The cost of sending facsimiles from a personal or office machine is reimbursable at a rate not to exceed $0.05 per page.

b. The actual cost of sending facsimiles from an outside machine, such as a hotel facsimile machine, is reimbursable with a receipt.

8. CDs/DVDs/Audiotapes/Hard Drives:

a. The cost of blank CDs, DVDs, or audiotapes is reimbursable at a rate not to exceed $1.00 each. The actual cost of commercial copying of material from one digital media to another is reimbursable with a receipt.

b. Although hard drives such as jump drives are reusable and are therefore generally treated as non-reimbursable overhead expenses pursuant to Section 16.b. below, in cases in which the cost of the hard drive does not exceed the cost of the CDs or DVDs that would be needed to copy digital discovery or other electronic materials, IDS will reimburse counsel for the cost of the hard drive if a receipt is provided. When seeking reimbursement for a hard drive, counsel must indicate the approximate number of CDs or DVDs that would have been needed to copy the digital discovery.

9. 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.

10. Personal or Expedited Delivery:

a. Absent exceptional circumstances that warrant personal delivery, IDS will not pay an attorney's time or expenses associated with traveling to a court in another county for the sole purpose of hand-delivering or filing a document. If exceptional circumstances exist, counsel must attach to the fee application a brief explanation of those circumstances.

b. Absent exceptional circumstances, IDS also will not reimburse an attorney for expenses associated with expedited or overnight delivery of documents or filings. If exceptional circumstances exist, counsel must attach to the fee application a brief explanation of those circumstances.

11. Computerized Legal Research:

a. The actual case-related costs of computerized legal research (e.g., Lexis-Nexis and Westlaw) will be reimbursed only if receipts are provided.

b. Courtsearch, NC 123, DMV and DOC searches, etc.: The actual costs of any such computerized searches will be reimbursed only if receipts are provided. If actual costs are not incurred, an attorney will be compensated for his or her time according to the hourly rate, but will not be compensated any amount per search.

12. Continuing Legal Education:

Effective April 1, 2011, IDS will no longer pay attorneys for time or expenses associated with attending any continuing legal education programs. However, some time and expenses associated with the following "hands-on" training programs are compensable if the program was held on or before March 31, 2011:

a. Capital College (co-sponsored by NCAJ & CDPL):
If the program was held on or before March 31, 2011, IDS will reimburse an attorney who attends the Capital College for: 1) actual driving time for one round trip to and from the college; 2) 10 hours for time spent at the college working on his or her case; and 3) mileage for one round trip to and from the college at the current state authorized rate.

b. Changing the Picture of Your Post-Conviction Case (or equivalent program sponsored by CDPL):
If the program was held on or before March 31, 2011, IDS will reimburse an attorney who attends this post-conviction program for: 1) actual driving time for one round trip to and from the college; 2) 6 hours for time spent at the program working on his or her case; and 3) mileage for one round trip to and from the program at the current state authorized rate.

c. North Carolina Appellate Advocacy Training (sponsored by IDS):
If the program was held on or before March 31, 2011, IDS will reimburse an attorney who attends this appellate program for: 1) actual driving time for one round trip to and from the college; 2) 6 hours for time spent at the program working on his or her case; and 3) mileage for one round trip to and from the program at the current state authorized rate.

d. The Racial Justice Act: Proving Bias and Saving Your Client's Life (co-sponsored by NCAJ & CDPL):
IDS will reimburse an attorney who attended this October 2009 program for 5 hours of time spent at the program, to be billed to one of their pending potentially capital cases at the trial level or capital post-conviction cases.

13. Paralegal or Legal Assistant Time:

Effective April 1, 2004, 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, not to exceed a total of 35 hours (or $525) per case per attorney without prior authorization. This service will not be reimbursed on interim bills, and can only be claimed as part of the attorney's final fee application in a case. The final fee application must be accompanied by an itemized billing record setting forth the paralegal's or legal assistant's time. Paralegal or legal assistant services will only be reimbursed if they are directly related to a case file and will not be reimbursed if they involve routine administrative office tasks.

14. Student Time:

Effective May 01, 2026, in potentially capital cases at the trial level or capital post-conviction cases, IDS will compensate an attorney as a reimbursable expense for amounts actually expended on assistance from students (at a college level or higher) at a rate up to $15 per hour, not to exceed a total of 50 hours (or $750) per case without prior authorization. This service will not be reimbursed on interim bills and can only be claimed as part of the attorney's final fee application in a case. The final fee application must be accompanied by an itemized billing record setting forth the students' time, as well as a statement of the hourly rate actually paid to the student. Student services will only be reimbursed if they are for work that is directly related to a case file. They will not be reimbursed if they involve routine administrative office tasks or serve solely as a learning opportunity for the student. Work performed by students will not be reimbursed in appellate cases.

15. Providing Closed Client Files and Transcripts:

a. Closed Client Files: Rule 1.16(d) of the Revised Rules of Professional Conduct, as well as Comments [10] and [11] to Rule 1.16, obligate an attorney whose employment is terminated to surrender to the former client "all papers . . . to which the client is entitled." With the exception of an attorney's own notes and incomplete work product, the client is entitled to originals or copies of anything in the file that would be helpful to a successor attorney. Moreover, according to the State Bar, the attorney cannot charge the client if the attorney wants to keep a copy of the client's file for his or her own records. Thus, if a client requests his or her file at the conclusion of the representation or any time thereafter, IDS generally will not 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. If the attorney received documents in the client's file in paper format and wants to convert them to an electronic format for storage purposes, IDS recommends that the attorney offer the paper record to the client in writing at the conclusion of the representation. If the client declines the paper copy in writing or does not respond to the attorney's offer (and the attorney is reasonably certain that the address for the client is correct and that the client can receive mail at that address), but subsequently requests a copy of the file, the State Bar staff has informed IDS that the attorney may satisfy his or her ethical obligations to the client by providing the file to the client or the client's designee in electronic format, even if the client is incarcerated. Thus, IDS will not reimburse an appointed attorney for expenses associated with preparing a paper copy from the electronic media under those circumstances.

In addition, because IDS understands the value of attorneys retaining copies

of closed client files in serious cases such as capital cases and appeals and because the files in those cases are the most likely to be voluminous, attorneys may be reimbursed for up to 20 hours of paralegal time at $15 per hour ($300) for time spent scanning or copying a closed client file. IDS will also 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 his or her file, and will reimburse an attorney for postage expenses claimed in compliance with Section V.A.14., below.

If these activities are performed at the conclusion of the representation, the appointed attorney should include the allowed time and expenses on his or her final fee application and clearly indicate that they are associated with providing a closed file to the client. If these activities are performed after the conclusion of the representation and after a final fee application has been submitted, the attorney may submit a supplemental fee application for reasonable allowed time and expenses (other than attorney time spent scanning or copying). In that instance, the attorney must write "Supplemental—Former Client Files" at the top of the fee application form. When a former client requests the file after the one-year deadline for the submission of fee applications has expired, that deadline shall not apply to supplemental fee applications for the allowed time and expenses associated with providing a former client with copies of his or her file. Because of the State Bar's opinion that an attorney cannot charge the client if the attorney wants to keep a copy of a closed client file for his or her own records, IDS will not seek recoupment of these expenses.

b. Transcripts: When an indigent client requests a copy of transcripts produced by order of a court for an appointed attorney's use during the appellate representation, the attorney must provide the client a copy of the transcripts within a reasonable period of time after the representation is completed. An appointed attorney will be reimbursed for only one printed copy of the transcripts, and the attorney should caution the client that the one copy he or she receives is the only copy that will be provided at state expense. The attorney may send the transcripts to the client before the end of the representation if the attorney will not need the printed copy, *e.g.*, when the attorney will work from an electronic version. The attorney may send the transcripts to the client even if the client does not request them, but should ask an incarcerated client if he or she would prefer that the transcripts be sent to a family member or friend.

Transcripts are generally provided by court reporters in electronic format. The manner in which the attorney provides the client a copy of the transcripts will depend on whether the client is incarcerated and whether the attorney produced a paper copy for use during the representation. If the client is incarcerated and the attorney has a paper copy of the transcripts at the end of the representation, the attorney should send the client that paper copy when the client requests it and retain the electronic version provided

by the court reporter. If the attorney never produced a paper copy, the attorney should produce a paper copy of the transcripts for the client at the lowest possible cost; in no event will IDS reimburse costs that exceed the maximum per page reimbursement for copies set forth elsewhere in this policy.

Free software capable of opening .pdf files typically can print four pages to one letter-sized sheet of paper, and to both sides if a duplexing printer is available. This format provides the client a readable copy of the transcripts at greatly reduced cost and must be utilized whenever practicable and appropriate. If the attorney does not have a suitable printer, the attorney can utilize a commercial copy service. If the client is not incarcerated, the attorney can provide the client either with an existing paper copy or with an electronic copy. If the client is visually impaired, the attorney may provide the transcripts in the least costly format that the client can read. The transcripts need not be in the format noted above if produced for the attorney's use during the representation. The attorney will be reimbursed for the reasonable time and cost of producing a copy of the electronic version of the transcripts provided by the court reporter.

If an appointed attorney will use a paper copy of the transcripts during the representation, a paper copy cannot be provided to the client during the representation unless the client or a third party pays the cost of production. However, when a capital defendant is sentenced to death, appointed appellate counsel may provide the death-sentenced appellant a paper copy of the trial transcripts during the pendency of the appeal at the appellant's request and at the lowest possible cost by utilizing the format described above. When an indigent client appeals from a trial court judgment or order, an appointed trial attorney who has transcripts that were produced for use during the pendency of the trial representation should not give the client the transcripts, but should turn them over to appointed appellate counsel.

16. Other Expenses:

a. Miscellaneous:

For all "other expenses" that cumulatively exceed $25.00 (e.g., postage, film (purchased by the roll or in bulk), etc.), an applicant must submit receipts or supporting documentation for all expenses. If these expenses, cumulatively, total less than $25.00 an applicant does not need to submit receipts or supporting documentation for them.

b. Overhead:

Normal overhead expenses, such as case notebooks, paper, push pins, etc., will not be reimbursed.

B. Prior Approval Required:

1. Out-Of-State Travel:

With the limited exception of travel to an adjacent state when there is no overnight

stay and mileage will be the only claimed expense, necessary expenses associated with out-of-state travel are reimbursable only with prior approval from the IDS Office. To seek prior approval for out-of-state travel expenses in a potentially capital case at the trial level, the attorney should complete form IDS-045 and submit that form to the Office of the Capital Defender.

a. Travel Costs: Reasonable and pre-approved travel costs will be reimbursed with receipts.

b. Meals: Meals are only reimbursable if there is an overnight stay and then in accordance with the current state authorized per diem, with one per diem per overnight stay. Receipts are not required. For all fee applications signed by a judge before August 1, 2019, the out-of-state per diem is $41.00. For all fee applications signed by a judge on or after August 1, 2019, the out-of-state per diem is $42.10.

c. Lodging: The actual costs of over-night lodging is reimbursable, not to exceed the current state authorized rate. For all fee applications signed by a judge before August 1, 2019, the authorized rate is up to $84.10. For all fee applications signed by a judge on or after August 1, 2019, the authorized rate is up to $88.70. In addition, actual taxes incurred are reimbursable. A valid hotel receipt is required, and credit card receipts will not be accepted.

2. Transcript Production:

a. IDS cannot order a court reporter to produce a transcript or to expedite production of a transcript; only a Judge can enter such an Order. *See, e.g.*, G.S. 15A-1444(e); N.C. R. App. P. 7. However, IDS can authorize funding for transcript production in capital cases and appeals.

b. If IDS authorizes funding for normal transcript production (on form IDS-015), the court reporter will be paid at the approved indigent rate published in the Court Reporter Handbook—$1.25 per page for an original plus an additional $.25 per page if the transcript production needs to be expedited for a transcript ordered or requested on the form appellate entries before November 1, 2015, or $2.00 per page for an original plus an additional $.40 per page if the transcript production needs to be expedited for a transcript ordered or requested on the form appellate entries on or after November 1, 2015. To get paid, the court reporter should complete AOC-A-42 and forward that form and the IDS authorization to AOC Administrative Services Division.

c. If an attorney needs an expedited transcript in an exceptional case, or to pay a court reporter an appearance fee in a hearing that would not normally be transcribed, the attorney has 2 options:

- Obtain a Court Order directing the court reporter to produce the transcript in a specified period of time or to appear at the hearing; or
- Apply to the IDS Office for prior authorization to compensate the court reporter at a higher expedited rate or to allow funding for an appearance fee. Funding at a higher rate per page or for an appearance fee must be specifically authorized by the IDS Office before the expense is incurred.

VI. Expert and Support Services:

A. Prior Authorization Required:

- Prior approval is required for the use of any expert services in any case under the direct oversight of the IDS Office—i.e., first-degree murder or undesignated degree of murder cases at the trial level, all capital and non-capital appeals, and capital post-conviction proceedings. Attorneys and experts are expected to monitor any expert spending and, absent exceptional circumstances, the IDS Office will not compensate experts for amounts in excess of the prior authorization.
- To seek prior approval for expert services in a potentially capital case at the trial level, the attorney of record should complete form IDS-028 and mail, fax, or email that form to the Office of the Capital Defender. To seek prior approval for an expert's out-of-state travel expenses in a potentially capital case at the trial level, the attorney should complete form IDS-045 and submit that form to the Office of the Capital Defender. If funds are being requested after a case has been finally disposed at the trial level, the Office of the Capital Defender no longer has authority to approve funds and the attorney of record must submit the request to the IDS Director, along with an explanation for why funds were not sought and obtained in a timely fashion.
- To seek prior approval in a capital or non-capital direct appeal, the attorney of record should first discuss the necessity for expert assistance with the Appellate Defender. The attorney should then email or fax a written request for funds to the IDS Assistant Director. The request must include the following information: the client's name; the trial court docket number(s) and county if a record has not been docketed in the Appellate Division and the appellate court docket number if a record has been docketed; a summary of the facts supporting the need for the expert; the name, address, telephone number, and email address of the expert the attorney has contacted about performing the necessary work; the anticipated number of hours of work; verification that the expert has agreed to perform the work at the applicable standard hourly rate for that type of expert; and the total amount requested. If the request is for additional funds for a previously authorized expert, the attorney should explain in detail why the additional funds are necessary.

- To seek prior approval in a capital post-conviction case, the attorney of record should complete form IDS-029 and mail, fax, or email the form to the IDS Office.
- If an expert plans to bill for the services of any other person pursuant to the expert's authorization, the attorney must seek and obtain specific prior approval for the services of that other person.
- The IDS Office will honor any Court authorizations for expert funding that were obtained before July 1, 2001, or those that result from any appeal to a Judge from a denial by the IDS Office. *See* Rules of the Commission on Indigent Defense Services, Rule 2D.4 (2001).

B. Standardized Expert Rates for Services and Travel:

1. Definitions:

- Time In Court means time testifying or observing if asked to observe by the attorney requesting the expert's services.
- Time In Court Waiting means time the expert is sitting in court waiting to testify when the expert has been called but not yet sworn in. It does not include time spent in court observing if asked to observe by the attorney requesting the expert's services.
- Time Out Of Court means time spent reviewing files, documents, or evidence; evaluating the defendant or respondent; preparing for testimony; meeting with the attorney; or advising the defense on the case.

2. Set Compensation Rates:

The following set compensation rates apply to the types of experts specified below for time in court, time waiting in court, time out of court, and time traveling. Such experts are not entitled to any additional hourly compensation based on years of experience.

Type of Expert	Hourly Rate
Paralegal/Legal Assistant	$15
Transcriptionist (English Language)	$20
Licensed Private Investigator*	$55
Mitigation Specialist	$40/$50/$60 (as approved by IDS)
Attorney Serving as Expert	Same rate as appointed counsel in the case

* *Private investigators must be in compliance with Chapter 74C of the General Statutes. Per the Private Protective Services Board, a private investigator must be licensed, with the following two exceptions:*

1) An investigator who is a direct employee of an attorney does not have to be licensed. Direct employment means either as a W-2 or 1099 employee. Receipt of a 1099 from IDS does not constitute being an employee of an attorney. An unlicensed investigator who is working as an employee of an attorney may only work on that attorney's cases.

2) An investigator trainee who is attempting to gain the requisite hours to become a licensed private investigator must work under the supervision of a licensed private investigator. An attorney cannot provide the statutorily mandated supervision to a private investigator trainee.

3. Base Compensation Rates by Education Level and Type of Expert:

- The hourly rates and policies outlined in the remainder of this Section apply to all expert authorizations that are dated on or after September 1, 2011.
  Hourly rates for services or travel that were specified on expert authorization forms dated before September 1, 2011 will continue to be honored.
- For any expert types that are not specified in VI.A.2, above, the following base compensation rates apply for both time in court and time out of court as defined above:

Highest Education Level or Field of Expertise	Base Hourly Rate
High School or Equivalent	$30
Associate's Degree	$50
Linguist (Federally Certified)	$60
Bachelor's Degree	$70
Master's Degree	$85
Crime Scene and Related Experts (*e.g.*, Accident Reconstruction, Arson, Ballistics, Blood Spatter, Fingerprint, Handwriting, Use of Force)	$100
CPA/Financial Expert	$100
Pharmacy/PharmD	$125
Information Technology Experts (*e.g.*, Computers, Telecommunications, Digital Forensics)	$150

Highest Education Level or Field of Expertise	Base Hourly Rate
Ph.D./Psy.D/Other Licensed Doctor (e.g., Doctor of Veterinary Medicine, Doctor of Nursing, Doctor of Dental Medicine)	$200
Medical Doctor	$250
MD with Specialty (*e.g.*, Psychiatrist, Pathologist)	$300

These base compensation rates shall not apply if a former state employee is called to consult or testify about work done in his or her capacity as a state employee; in such cases, the applicable base compensation rate shall be ½ the rate specified above.

- For experts who fall into multiple categories above, the highest applicable hourly rate shall apply. For instance, if an attorney is seeking funding for an accident reconstruction expert with a Ph.D. in mechanical engineering, the $200 hourly rate for a Ph.D. shall apply.
- In addition to the base compensation rates set forth immediately above, experts covered by this section are entitled to an additional $10 per hour if they have more than 10 years of experience in the field relevant to the expert services or testimony, or an additional $20 per hour if they have more than 20 years of experience in the field relevant to the expert services or testimony.

4. Travel and Wait Time:

- For experts with set compensation rates—*i.e.*, those covered by Section VI.A.2, above—time spent traveling and waiting in court shall be compensated at the same rate as time in court and time out of court.
- For all expert authorizations for experts with base compensation rates and experience enhancements—*i.e.*, those covered by Section VI.A.3., above—that are dated on or after September 1, 2011, time spent traveling and waiting in court shall be compensated at ½ of the applicable hourly rate specified above.

5. Deviations from the Standardized Hourly Rates:

In extraordinary circumstances, the IDS Director may grant deviations from the standardized base compensation rates listed above 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 on form IDS-028 (for capital cases at the trial level) or form IDS-029 (capital post-conviction cases). 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.

C. Multiple Experts from the Same Field of Expertise:

Authorization for more than one expert from a given field of expertise will not be granted unless counsel's request for funds establishes that a single expert from that field could not provide counsel with the needed assistance.

D. Trial Attendance by Investigators and Mitigation Specialists:

Effective April 1, 2004, IDS will compensate investigators and mitigation specialists for attending portions of a trial when their assistance is necessary, as long as that service can be provided within the amount pre-authorized for the investigator or mitigation specialist. However, IDS will not compensate investigators or mitigation specialists for attendance at an entire trial unless there are extraordinary circumstances justifying that attendance and the attorney of record obtains prior approval.

E. The Expert Fee and Expense Application:

- All expert bills in all cases under the direct oversight of the IDS Office should be submitted directly to the IDS Office, and not to the Administrative Office of the Courts or the State Controller's Office.
- Applications will be accepted directly from the expert or from the attorney of record on behalf of the expert.
- The application must include: 1) form IDS-003; 2) a copy of the funding authorization from the IDS Office; 3) the expert's itemized billing records; and 4) any required receipts.
- After receipt and processing, IDS will issue payment directly to the expert. *Attorneys should never pay an expert with their own funds and then seek reimbursement.*

F. Lay Witness Fees:

- G.S. 7A-314(a)-(c) & (e) set statutory allowances for the time, mileage, lodging, and meals for lay witnesses, and leave statutory authority for lay witness reimbursement with the Clerk or Judge.
- If you are seeking compensation for a lay witness in any category of case, please complete AOC-CR-235 ("Witness Attendance Certificate") and submit it to the Clerk or Judge as required by G.S. 7A-314. You should also complete Side Two of form AOC-CR-382 ("Certification of Identity (Witness Attendance)") and submit it to IDS Financial Services.

G. Foreign Language Interpreters and Translators:

- 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* www.ncids.org under the "Rules & Procedures" link.

H. Interpreters for Deaf Persons:

- G.S. 8B-2, 8B-6, and 8B-8 (1999) govern the appointment and compensation of interpreters for deaf persons. Authority for appointment and compensation still lies with the Courts.
- An attorney requiring the services of a sign language interpreter 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.