

## INTRODUCTION

The Indiana Legal Services (ILS) Legal Work Management Manual (Manual) describes the client representation function of ILS by providing the general framework for case processing. Unless otherwise stated, the requirements in this Manual are mandatory for each office, center and project. If any managing attorney or project director wishes to deviate from this Manual, that managing attorney or project director must seek permission from the Executive Director or his designee in writing.

This manual is not comprehensive. ILS and the legal profession have many other policies and procedures that apply to our employees and have a bearing upon the client representation function of the program, including the personnel policies, standard operating procedures, procedures of each individual office, the Legal Services Corporation Act and regulations and the Rules of Professional Conduct. The ultimate purpose of the manual is to ensure that ILS provides "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." 42 U.S.C. s2996(2).

The Legal Work Management Manual is designed primarily as a set of guidelines and standards for casehandlers and legal work managers. It strives for a degree of organization uniformity as to certain minimum practice standards. The requirements contained in the manual are part of the job description of each employee whose work is described. Job performance will be measured, in part, by compliance with the requirements of the manual.

Client representation also involves the work of other staff members, such as receptionists, intake workers, pro bono coordinators, secretaries and office managers. This manual describes the work of these positions as they directly relate to the client representation. However, many of the other responsibilities of these staff members are not included in this manual.

A copy of the Legal Work Management Manual has been distributed to each ILS casehandler and legal work manager. A central reference copy has also been provided to each office for use by other office staff. A copy is available on the ILS website. As new casehandlers are hired, they should immediately be given a copy of the Legal Work Management Manual and provided with sufficient guidance and opportunity to familiarize themselves with its contents. Other new staff should be promptly oriented to those requirements of the manual that affect their work.

The manual is organized in loose-leaf binder form. Each section is numbered and each page is dated. As changes are made in the contents of the manual, they can easily be distributed for addition to or replacement of existing material.

Finally, wherever this Manual refers to the Executive Director, that section should also be read to include "or the Executive Director's designee." Also, whenever this Manual

refers to the Managing Attorney, that should also be read to include "Project or Center Director."

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## **100.00 CLIENT INTAKE**

### **110.00 Reception**

The reception function consists of two major components, which may or may not be performed by the same person: the reception of people who come into ILS offices in person and those who call on the telephone.

The reception function affects the quality of legal work in at least three important ways: (1) it provides new clients with a first impression of their counsel; (2) it provides an impression of the program to opposing counsel, opposing parties, and court personnel; and (3) it affects the structuring of and assists in the protection of casehandler time. Accordingly, the receptionist is a key figure in the delivery of high quality legal assistance.

There must be both telephone and walk-in receptionist coverage at all times when ILS offices are open to the public. Depending upon the office, the same person may fulfill both receptionist functions, as well as other responsibilities. The person performing either form of receptionist function must have the appropriate skills for carrying out these responsibilities and for meeting the public. While some skills are a function of basic personality traits, most receptionist skills can be developed and enhanced through appropriate training, which ILS is responsible for providing.

A designated person or persons in an office should be assigned receptionist responsibilities. The reception function should never fall to the person who happens not to be doing anything else at the time. Other staff persons can fill in for a receptionist who is on break or is absent from work, but only if they have been trained. Thus, training should be provided to all receptionists and all back-up personnel. Each office may use an automated attendant with its telephone system. This system should be designed so that it is easily navigable by clients, and it must still be possible to access the receptionist during business hours.

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### **110.10 Standards for Receptionist Performance**

1. The receptionist shall promptly and pleasantly greet all persons who contact the office. A telephone receptionist must be able to respond to calls quickly and without placing callers on "hold" for long periods of time. Telephone equipment and call handling procedures should be developed to assure that this does not happen.
2. The receptionist shall accurately determine the needs of the visitor or caller and promptly announce the person to the appropriate staff person.
3. The receptionist or, alternatively, secretarial support staff person shall accurately record a message for all visitors or callers who cannot be routed to the proper staff person, including name, date, time, telephone number, and short summary of the caller's business, or shall route calls to the appropriate voice mail box.
4. The receptionist shall maintain the confidentiality of clients at all times. This includes the use of discretion in inquiring into the business of visitors to the office when others are in the waiting room, being on guard that no confidential client information is visible to office visitors, being discreet in announcing visitors and their business to staff members, and assuring that discussions by staff about or with clients do not take place in the reception area.
5. The receptionist is not to turn any person away unless the person has mistakenly come to or called the wrong place, except as allowed in the section 120.10 Pre-Screening, described below. Other staff members, such as casehandlers and intake interviewers, are vested with the authority to turn callers or visitors away as specified below. During non-intake hours, the receptionist may turn new applicants away with an explanation of the normal intake procedure, but only after determining that the applicant is not presenting an emergency case.
6. The receptionist shall never give legal advice to callers or visitors. Legal advice includes any statement or suggestion as to what rights or responsibilities a person may or may not have or what actions a person may or may not take.

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## **110.20 The Physical Environment of the Reception Area**

The reception area should be neat, clean, pleasant, well-lighted and have comfortable seats in sufficient numbers to accommodate the usual numbers of waiting persons. The reception area should have legal education materials prominently displayed and clearly available to people and should have a variety of up-do-date reading materials of general interest, including a local daily newspaper. It is recommended that there be a small selection of toys available to occupy younger children. Reception areas, and offices in general, including restroom facilities, must be accessible to persons with disabilities, including those who use wheelchairs.

During business hours, the atmosphere of the reception area must convey an image of serious, professional behavior. It may not be used as a congregating point for idle staff, a place for social interchange between staff members or between staff and friends, or a

storage facility for office supplies or equipment that is broken or obsolete. Likewise, it is not appropriate for casehandlers to conduct business, no matter how briefly, with clients in the reception area. The telephone reception area must also be kept free from noise, confusion and distracting activity.

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### **110.30 Staff Cooperation with the Reception Function**

Receptionists cannot adequately fulfill their job duties without staff cooperation. Staff members are expected to keep office hours congruent with the business hours of the office in order to be available for visitors and callers during office hours. It is the individual responsibility of each casehandler to make arrangements for the reception of clients or other office visitors or callers expected before or after regular business hours. All staff persons should make known their whereabouts to some central source, typically the telephone receptionist, so staff can be promptly located for callers or visitors. Where applicable, casehandlers should also keep their secretaries informed of their whereabouts. This includes advising the receptionist of one's whereabouts when out of the office during business hours. Casehandlers are expected to promptly respond to telephone calls or instruct the telephone receptionist regarding disposition of telephone calls. Casehandlers are expected to respect appointment times with clients and to promptly greet them upon their arrival at the office. In the event a casehandler is unexpectedly tied up in the office or detained out of the office, the casehandler or a specific person on the casehandler's behalf, such as a secretary, should advise the client of the delay, state briefly the reason for the delay, apologize to the client, estimate the length of the delay, and solicit the client's cooperation in waiting or rescheduling the appointment. Clients also often appear at the office without an appointment. The receptionist should generally announce these persons like anyone else. It is the casehandler's responsibility, not the receptionist's, to deal with these clients by determining their need and responding appropriately. Casehandlers may leave general instructions with the receptionist regarding the handling of clients without appointments.

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### **110.40 Accessibility**

Each office shall make arrangements to ensure that their offices are accessible to all clients, particularly those with disabilities and those who do not speak English as a first language. Each office must be accessible to the physically disabled who wish to come to the office in person. Each office's telephone system must be accessible to clients or applicants who are hearing impaired, through either a TDD or similar system on site or

through the use of a telephone relay system. Each office should also be accessible to those who do not speak English as a first language, either through the use of bi-lingual staff or volunteers, through a telephone interpretation service or through the use of interpreters in the community who are available on an as needed basis.

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## **120.00 Intake**

The intake interview with an applicant for legal services will typically occur over the telephone or in the office or at an outreach site. Intake interviews are to be conducted by designated staff persons or volunteers. Back-up interviewers shall be available to do interviewing when the primary interviewer is on break or out of the office. No one shall conduct intake interviews without having been trained.

Occasionally, requests for service will be made by letter. In those cases, these standards will need to be adapted accordingly in order to develop sufficient information to permit an accurate determination of eligibility and intelligent review by the Group Case Acceptance Committee.

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## **120.10 Pre-screening**

Each office or project should train its staff thoroughly regarding the types of cases that the office handles. A thoroughly trained staff member, either a receptionist, intake interviewer, paralegal or attorney, can tell an individual caller that the type of problem the caller has is not something that ILS will be able to handle. The list of the types of calls that are handled in this matter should be clearly defined, in writing. This list shall be developed after consideration of ILS's Priorities, needs of the particular community, resources of the offices and any case acceptance guidelines developed by ILS's Board of Directors or local advisory councils. Each office shall keep an updated list of types of cases that they are not handling, and shall ensure that the Executive Director have a copy of that list.

The purpose of not completing an application for a particular caller is to conserve ILS's resources and also spare the caller from having to go through a full intake only to be rejected. If a caller with a problem that ILS does not handle insists, that caller shall be permitted to make an application.

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## **120.20 Intake Interview**

In the intake interview process, the right of applicants to confidentiality shall be preserved. This requires that intake interviews be conducted in an area that will not permit the contents of the interview to be overheard by persons not employed by ILS and that will convey to the applicant a legitimate feeling of privacy. Discussions with or concerning applicants must not take place in the office reception area.

The primary functions of the intake interview are: (1) to gather basic data from clients for reporting to funding sources and making eligibility determinations; (2) to make eligibility determinations under limited circumstances as set forth below; and (3) to gather factual information about the applicant's legal problem in order to permit an evaluation of the basic merits of the applicant's case. The first and second functions include use of the intake program on Legal Files and for outreach cases, the ILS Client Intake Sheet (Form 120.00A and Form 120.00B). In the event that the Client Intake Sheet is used the information will be entered in Legal Files, and a computer generated intake sheet will be created at the earliest possible opportunity. Applications cannot be acted upon until they have been entered into the case management system. The third function shall be assisted by the development of questionnaires for recurring types of cases in order to guide the interviewer in developing the facts in sufficient detail to permit an assessment of the merits of the case.

Intake interviewers shall never commit the program to accepting a case. Interviewers may reject applicants in accordance with the ILS eligibility guidelines in the following limited circumstances:

1. The applicant is clearly over income or over resources and is not eligible under any exception;
2. The applicant's problem is clearly criminal or fee generating;
3. The applicant clearly does not have a legal problem;
4. The applicant does not live within the ILS Service Area, and the legal problem is clearly not resolvable within the ILS Service Area; or
5. The applicant has the type of problem that the office has determined is not one that the office will handle, as described in the Pre-screening section above.

Reasons for rejecting at the intake interview shall be clearly noted in Legal Files or on the intake sheet to facilitate review.

Special caution must be exercised to be sure that rejections occurring at the intake interview stage are unquestionably ineligible cases. All applications for services that were rejected at the intake interview stage shall be reviewed at least weekly by the managing attorney or trained designee attorney in order to determine that no

inappropriate rejections have been made. It is recommended that the designee be an attorney.

Non-attorney intake interviewers may not give legal advice to applicants, unless it is at the specific instruction of an attorney. If the intake interviewer is also a casehandling paralegal, s/he may give advice to the extent and under the circumstances set out in Section 410.00. The nature of the advice and the name of the attorney shall be noted in Legal Files on the intake sheet. At the conclusion of the interview, if a case is not rejected at that stage or is not an emergency, the interviewer will inform the applicant that a decision will be made upon the application within three business days, and that the results will be communicated to the applicant by the second business day following the decision, at the latest.

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### **120.30 Conflict of Interest Check**

ILS's Legal Files system must be used to check conflicts prior to an intake interview being conducted. The interviewer or other designated staff member shall check for potential and actual conflicts of interest pertaining to any adverse party elicited during the preliminary questioning. It is the interviewer's responsibility to obtain from the applicant the names of all parties potentially or actually involved in the legal matter s/he is calling about. The conflict of interest check must include checking the applicant's name against any potential or actual adverse parties to ensure that a named potential or actual adverse party is not a past or current client of ILS. Likewise, the conflict of interest check is required in order to ascertain the applicant's relationship to any past or current client(s), if any, and to determine whether the applicant is a potential or actual adverse party as such. If the conflict of interest check reveals an actual and obvious conflict of interest, the interviewer shall tactfully explain to the applicant that ILS is prohibited from continuing the interview under the "Rules of Professional Conduct" adopted by the Indiana Supreme Court. If, on the other hand, the interviewer discovers that a potential conflict of interest may exist with a former client, the determination of this conflict can be made through immediate consultation and analysis with a staff attorney, if one is available, or after the interview has been conducted if a staff attorney is not available during the interview. The intake interviewer or other person performing the conflict of interest check shall initial the client-intake sheet in the appropriate place to indicate that a check has been completed. Where a possible conflict is discovered, the person conducting the conflict check shall also complete the Conflict Form 120.30A.

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## **120.40 Client Intake Hours**

Client intake hours must be set with several considerations in mind. First, the philosophy underlying ILS's intake system is that we should distribute our scarce resources by serving the most meritorious cases. Accordingly, our intake system must be sufficiently open to permit anyone who seeks our services a reasonable opportunity to make application and have eligibility determined through a process of reasoned consideration. Intake restrictions that prevent access to the application process discourage the rational distribution of resources and limit access according to arbitrary factors. Second, limiting access to the regular intake system tends to force applicants' cases into an emergency posture which, when presented to our offices, have a more disruptive effect upon the orderly processing of work and place the client in a more precarious position. Third, unduly restricted intake hours create a special burden upon the poorest of our clients, who have made special efforts to get to the office or to a telephone and who may have spent their last quarter calling our office. Fourth, restrictions on intake hours understandably create resentment in the client community, that group of people whom we must always count on to be our chief allies. Finally, the amount of time an office should be open for intake is, in part, a function of client demand. For offices serving many counties in large metropolitan areas the press of client demand will necessarily call for greater time and resources spent doing intake.

With these consideration in mind, our offices must be open to conduct intake interviews a minimum of ten hours per week. If an office conducts intake interviews through the use of a "call-back" system, then they may include in these ten hours the times during which applicants make the initial contact with the office and the time spent calling back the applicants to complete the application. Intake hours less than the minimum number must be with the express approval of the Executive Director and only in exceptional circumstances, even if the reduction is for a limited time.

Some offices use a different approach to conducting intake interviews. Varying approaches are not discouraged and may even increase applicant access to the intake system with fewer hours of open intake. Variations must be developed in consultation with and be approved by the Executive Director.

If applicants call the office at other times, they must be screened to determine whether the case is an emergency and, if not, told of the normal intake hours. If the case is an emergency matter, an intake interview must be conducted and the matter processed through the emergency case system. Applicants who come into the office for intake interviews at other times should have an intake interview done, if coming back or calling during normal intake hours would present a significant inconvenience or if the case is an emergency.

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## **120.50 Grievance Procedure**

At the time of application, all applicants shall be given verbal notice of ILS's Grievance Procedure, as described in Form 130.21A. The applicant shall be informed that: "If the applicant is dissatisfied with the assistance received from ILS, the applicant can contact our office for a copy of the Client Grievance Procedure."

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## **120.60 Required Applicant Information**

The intake worker is responsible for gathering and recording in Legal Files required information about every applicant. In particular, information regarding the applicant's income and assets and citizenship status must be obtained and recorded. The casehandler assigned to each case is also responsible for ensuring that the information in the case management system is complete and accurate for that case.

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## **120.70 Citizenship Attestation**

Where an application is completed in person, rather than on the telephone, the intake interviewer must obtain a signed "Citizenship Attestation" or documentation of immigrant status. These are further explained below in Section 220.00.

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## **130.00 The Group Case Acceptance System**

The acceptance of new cases at ILS is governed by the group case acceptance system. The primary function of the group case acceptance system is to review applications for services and determine which cases to accept for advice, which to accept for representation, which cases need further investigation, and which cases to reject by applying various criteria to the facts of each case in a group setting. This process maximizes the rational, affirmative selection of cases and minimizes delay in acting upon applications for legal assistance. A second function of the group case acceptance system is to provide a forum for a group discussion of new cases, in order to share information, suggest legal theories and develop possible strategies. Subject only to the

system for handling emergencies described in Section 150.00, group case acceptance is the normal and preferred method by which cases can be accepted at ILS. Even existing clients who develop new matters must have these new matters reviewed and passed upon through the group case acceptance system. However, local offices may use a modified group for certain substantive areas of practice. An example might be the experienced attorney-of-the-month who would function as a committee of one to review and process all divorce cases for a one-month period. Approval for "modified groups" should require the approval of the Executive Director.

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### **130.10 The Group Case Acceptance Committee**

Central to the group case acceptance system is the formation of a committee of case handlers who will act upon applicants' requests for legal services. In each office, project or unit the committee will consist of the intake interviewers, all attorneys, all casehandling paralegals and all pro bono coordinators. Group case acceptance committee meetings should be scheduled at regular times each week, at a time of day that facilitates attendance by committee members. Attendance at group case acceptance committee meetings is mandatory, subject to the discretion of the managing attorney, whether or not a given casehandler is taking new cases at the time. Casehandlers should avoid scheduling obligations that conflict with group case acceptance committee meetings.

The group case acceptance committee shall meet as many times per week as necessary to process applications. Minimally, every application for legal assistance must be passed upon by the committee by the end of the third business day following the date of application.

The group case acceptance committees will be chaired by the office managing attorneys or special project director or their designees. The chair of the group case acceptance committee must be an attorney. The Legal Files system will generate a Group Case Acceptance Log (Form 130.10A) which will record the following information for each case: date, client name, disposition, reason for rejection, if applicable, assigned casehandler, if applicable, and intake interviewer. Each applicant's case shall be presented by the interviewer to the committee. The presentation shall be oral, with reference to any notes made or papers received at the interview. Any discussion may occur as appropriate to aid in the decision to accept or reject the case.

The managing attorney or project director may in his/her discretion designate an attorney to do an initial screening of cases prior to the case's presentation at group. The purpose of such screening is to remove cases from the group's consideration that are of a sort that will predictably be rejected by the group or be designated as advice only or brief service cases. This attorney may, in the discretion of the managing attorney or

project director, designate case handler assignments for cases which are of a type that are usually accepted by the group. If this initial screening is done, the disposition of the case shall be noted on the Group Case Acceptance Committee Log which shall be presented to the entire group at the time of the Group Case Acceptance meeting. These cases shall also be reviewed orally.

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### **130.20 The Case Acceptance Decision**

If the case is not disposed of prior to the group meeting as described above, the members of the group case acceptance committee shall decide whether or not a case shall be accepted for legal assistance. When the committee cannot agree, the chair of the committee will make the determination. The group case acceptance committee must decide to either accept a case or to deny services. Case acceptance decisions may not be delayed or otherwise put on "hold." In those instances when there is insufficient information about the case to permit intelligent consideration by the group case acceptance committee, the application can be considered incomplete, and the applicant is to be promptly notified of the additional information required in order to permit further consideration of the application. Such incomplete applications should be held open for further information for no more than ten (10) days. If they remain incomplete, they should be rejected for that reason.

The following criteria shall be applied in deciding whether or not to accept a case:

1. Program priorities;
2. Potential impact of the case on the poor community;
3. Existing casehandler caseloads;
4. Expertise or lack thereof to handle the substantive legal problems;
5. The resources required in handling the case, including time and expense;
6. The potential for success or failure of the case;
7. The complexity of the case;
8. The impact upon the applicant if the case is not accepted;
9. The availability of other resources outside of the program, including Indiana's District Pro Bono programs, to address the applicant's needs;
10. Any case acceptance guidelines developed by ILS's Local Advisory Committees or Board of Directors; and
11. The applicant's membership in a segment of the population of eligible clients with special legal problems or special difficulties of access to legal services.

If a case is accepted for legal assistance during group case, an assignment to a specific casehandler is to be made during the group case acceptance committee meeting. If a case is not accepted, the applicant will be informed of that fact by letter. A telephone call is not precluded, but a letter is mandatory. The letter shall inform the applicant of

the reason or reasons for denial, and shall be signed by any member of the group case acceptance committee. The letter shall clearly disclose that the application was considered by a committee that included attorney staff members. The program or its offices may develop standardized letters to communicate denials for commonly recurring reasons. All letters denying assistance must be mailed by the close of business on the second business day following the group case acceptance committee meeting, at the latest. Quicker notification of denial, including by means other than letter, may be required to avoid prejudice to the applicant. When an application is denied by the committee, the specific reason for denying assistance shall be noted upon the appropriate intake sheet, and in Legal Files.

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### **130.21 Client Grievance Procedure**

The ILS Client Grievance Procedure ("the procedure") is attached as Attachment 130.21A. It is ILS's goal to give reasonable notice to clients and applicants of their rights under the procedure and to promptly and fairly dispose of appeals filed under that procedure. A copy of the procedure shall be prominently posted in the client reception area of each ILS office.

Applicants whose cases are accepted will receive information concerning the procedure in the ILS client retainer agreement, which must be executed by the client in every full service case. The client should always be provided with a photocopy of the executed retainer agreement. Absent client request, a copy of the procedure will not be provided to clients in full service cases.

When an office receives a request for a copy of the procedure it should immediately be supplied to the requesting party.

When a response is made to a client or applicant grievance, the person should always be advised of the next step in the procedure, in writing if he or she remains dissatisfied.

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### **130.30 Assignment of Cases**

As noted earlier, each accepted case reviewed in group is to be assigned to a specific casehandler during the group case acceptance committee meeting or, in the instance of referrals to cooperating private attorneys, will be assigned to the pro bono coordinator who, in turn, will make the specific private attorney assignment. Case assignment

decisions may be made by agreement, but failing that, the decision will be made by the chair of the committee.

When a decision is made to refer a case to a pro bono or contract attorney, the pro bono coordinator shall attempt to place the case with that private attorney within one week. If the attempt has been unsuccessful one week after the group case acceptance meeting, the pro bono coordinator shall report this at the next group case acceptance meeting. At that time, the group may decide to continue making referral attempts, or to take the case in house.

Assignment of cases should be made to achieve a balance between expertise and case mix. Each casehandler is expected to develop expertise but, simultaneously, should develop a case load reflecting a broad spectrum of legal problems facing poor people, providing him/her with experience of different case types and practice skills.

Accordingly, case assignment decisions should be guided by the following factors:

1. Casehandler's availability to take the case, taking account of existing caseload, conflicting obligations, and vacation and other time out of the office;
2. Current expertise of casehandler;
3. Casehandler's need to develop expertise;
4. Casehandler's caseload mix;
5. Experience of casehandler and complexity of matter; and
6. Desire of casehandler to take the particular case.

Subject to ethical limitations, casehandlers are expected to be in a position to accept cases at group case acceptance committee meetings regardless of their personal feelings toward the client or the subject matter of the case. Due to the press of an existing caseload, it may be necessary for a casehandler to occasionally stop taking new cases for a period of time. This should happen only after the casehandler's supervisor has been consulted and the casehandler and supervisor have developed a work plan designed to manage the case load to the point where the casehandler can return to taking new cases as soon as possible. Supervisors in each office must take care to coordinate with each other the removal of a supervisee from new case assignments in order to assure that some casehandlers will be available to take new case assignments at each committee meeting.

From time to time, it will be unavoidable that casehandlers will be unable to attend group case acceptance meetings due to conflicting commitments. While the absence of a casehandler from group case acceptance committee meetings does not preclude the assignment of new cases to him/her, special care must be taken when assigning cases which require expeditious handling or which have scheduled court appearances or other obligations that may conflict with pre-existing case handler commitments.

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## **130.40 Limited and Extended Service Cases and Cases to be Investigated**

In assigning a case to a casehandler, the group case acceptance committee will make one of three designations regarding the level of service to be provided: that it is a limited service case (typically, but not limited to, "counsel and advice" or "brief service"); that it is an extended service case (one that will likely be closed with an F through K closing code); or that it is a case that requires further investigation before a determination about limited or extended service can be made. For limited service cases, the casehandler may, at his/her discretion, upgrade the level of service if the merits of the client's case warrant it. For extended service cases, any casehandler decision to provide limited service in lieu of full service or to reject a case after future consideration of eligibility must be approved by his/her supervisor, if the casehandler is not a supervisor or senior attorney. The ILS Senior Attorney Policy is appended as Attachment 130.40A. Even when a case is assigned for extended service, the casehandler must carefully evaluate the merits of the client's case before committing the program to provide specific representation to the client. For cases that require further investigation, the casehandler may provide limited or extended service at his/her discretion.

Any limited service case must include a written communication to the client, providing the relevant advice, confirming oral advice, or summarizing the actions taken on behalf of the client and appropriately terminating the casehandler/client relationship. Limited service cases, including written communication to the client, should be completely resolved within a maximum of five (5) days of case assignment or else an extended service file should be opened.

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## **140.00 Initiating Client Contact**

After assignment of a case, the casehandler is responsible for initiating contact with the client by the end of the second business day following assignment. When the client's circumstances require, the initial contact must occur sooner. The initial contact may be by letter, but other methods, including telephone, should be used if circumstances require prompt action. If initial contact is by telephone, there must be a Legal Files entry preferably or a note on the computer-generated intake sheet documenting the contact. The purpose of the contact is to advise the client that the case has been assigned to the casehandler and to arrange a mutually agreeable time for the client and casehandler to meet for an initial interview or to conduct an initial client interview over the telephone.

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## **150.00 Emergencies**

Each office must have a system for handling cases that present emergency or exigent circumstances, even outside of normal intake hours. While each office may define emergencies more broadly, emergency cases must include at least cases within the existing statement of priorities where immediate legal action is necessary to preserve the basic necessities of food, shelter, or family integrity, or to protect the applicant or a member of his/her immediate family from bodily harm. Emergency cases must also include cases where individual action is required to prevent the loss of legal rights.

It is recommended that emergencies be handled in each office with the managing attorney designating for each business day an "emergency attorney." In the event an attorney will be absent from the office for all or a substantial part of any day for which s/he is designated as the emergency attorney, it is his/her responsibility to arrange for coverage by another attorney. Each office must carefully define emergency cases so that clients are not harmed by having to wait for a response from an ILS attorney and so that the emergency attorneys are not overly burdened with cases that are not actually emergencies.

The role of the emergency attorney is limited to handling only that problem or portion of a problem that is determined to be an emergency. At the next available group case acceptance committee meeting, the case is to be presented and a determination made regarding continued representation and casehandler assignment. Typically, the emergency attorney should continue as primary casehandler, if the group case acceptance committee determines that the case should be accepted for continued representation. The mere fact that an applicant presents a case that comes within the definition of an emergency does not obligate the program to handle even the emergency aspects of the case. The emergency attorney has the authority to evaluate the merits of an emergency case, taking into account the case acceptance criteria set out at Section 130.20 and to decline representation as to the emergency aspects of the case. Nonetheless, the case should still be presented at the next group case acceptance committee meeting for a determination regarding accepting the case or denying assistance as to matters other than the emergency.

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## **160.00 Outreach and the Group Process**

It is recognized that each office conducts outreach differently. Intakes done at a location outside the office must be made part of the group case acceptance committee process. Mechanics of implementation are left to each local office, but offices are urged to consider both the necessity of integrating outreach intakes into the group case acceptance system, as well as the importance of quick decision-making on acceptance

or rejection. All intake information gathered during outreach must be entered into Legal Files before the group case acceptance meeting.

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## **200.00 ELIGIBILITY GUIDELINES**

### **210.00 ILS Client Eligibility Guidelines**

All eligibility determinations must be in conformity with the ILS Client Eligibility Rules, appended as Attachment 210.00A.

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### **220.00 Immigrant Eligibility**

In order to comply with the statutory and regulatory restrictions upon providing assistance to certain aliens the following procedures shall be followed:

1. The pre-screening interview shall include the question, "Are you a citizen of the United States?" The answer to the citizenship question is to be recorded in Legal Files, or the appropriate place on the computer-generated intake form. If the intake is done in person then the intake worker shall have the applicant sign a citizenship attestation form (Form 220.00A). If the answer is "no", the intake worker shall complete the "Alien Eligibility Form," Form 220.00B, attached.
2. If assistance is denied, nothing further is required. If the case is accepted, it is the responsibility of the assigned casehandler to comply with the further requirements of determining eligibility under the alien restrictions.
3. In cases in which the intake sheet designates that the applicant is a citizen, the procedure differs slightly depending upon the level of assistance provided.
  - a. In limited service cases, where there is no in person contact with the client, no additional documentation is required.
  - b. In limited service cases where there is in person contact with the client or where ILS sends documents to the client and requires that they be returned prior to the assistance being given, the client must sign a verification of citizenship form.
  - c. In extended service cases the casehandler shall obtain a signed verification of citizenship form at the earliest opportunity.

4. In cases in which the intake sheet designates that the applicant is not a citizen or there is reason to doubt that the applicant is a citizen, the casehandler is to verify eligibility under the alien restrictions by using Form 220.00B.
5. Notwithstanding paragraph 3 and 4 above, emergency aspects of a client's case may be handled before full verification, with the client's understanding that representation will thereafter be discontinued, if consistent with professional responsibility, if eligibility cannot be verified.
6. As to clients who are citizens, an office may re-verify citizenship in every case for a given client, and maintain the written verification in each case file or, alternatively, may maintain a central file of citizenship for future cases of a given client. The eligibility status for non-citizens should be re-verified for each case in order to document any changes in status.

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### **230.00 Office Coverage Areas**

The following offices serve the listed counties:

**Bloomington:** Bartholomew, Brown, Clay, Greene, Jackson, Lawrence, Monroe, Morgan, Orange, Owen, Parke, Putnam, Sullivan and Vigo

**Evansville:** Daviess, Dubois, Gibson, Knox, Martin, Perry, Pike, Posey, Spencer, Vanderburgh and Warrick

**Fort Wayne:** Adams, Allen, Blackford, DeKalb, Grant, Huntington, Jay, Steuben, Wells and Whitley

**Gary:** Jasper, Lake, Newton and Porter

**Hammond:** Lake and Porter

**Indianapolis:** Boone, Decatur, Delaware, Fayette, Franklin, Hamilton, Hancock, Hendricks, Henry, Johnson, Madison, Marion, Randolph, Rush, Shelby, Union and Wayne

**Lafayette:** Benton, Carroll, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Tipton, Vermillion, Wabash, Warren and White

**New Albany:** Clark, Crawford, Dearborn, Floyd, Harrison, Jefferson, Jennings, Ohio, Ripley, Scott, Switzerland and Washington

**South Bend:**Elkhart, Fountain, Kosciusko, LaGrange, LaPorte, Marshall, Noble, Pulaski, Starke, and St. Joseph

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## **240.00 Inter-Office Referrals**

It happens occasionally that an applicant contacts an office with a legal problem that requires resolution in a coverage area of another ILS office, or an applicant who is a resident of another ILS office coverage area contacts the office covering the county where the legal problem is to be resolved. While a certain amount of bureaucracy is necessary to deal with these situations, we must avoid requiring the applicant to bear the brunt of the bureaucratic burden. The following is the procedure to be followed.

If the applicant contacts the office covering the county in which s/he resides (office of residence), the receptionist or intake interviewer will provide the applicant with the toll-free number of the office covering the county where the problem is to be resolved (office of resolution). If and when contacted by the applicant, the office of resolution will conduct an intake interview and process the case like that of any other applicant. If the applicant contacts the office of resolution, an intake interview will be done without referring the applicant to the office of residence.

If the office of residence conducts an intake before the staff realize that the problem must be resolved in another office's service area, then they will forward the intake to the office of resolution. The office that completed the intake will inform the applicant that the office of resolution will make a decision on the application.

Thus, either by referral or initial contact, the office of resolution will always perform the case acceptance decision in cases involving applications by persons living within the ILS coverage area but outside of the normal office coverage area. The office of residence is not involved in the case acceptance decision, but will be expected to cooperate by lending appropriate and reasonable assistance to the office of resolution. In the event of any difficulties in the handling of inter-office client cases, the managing attorneys of each office are to be notified and are to quickly resolve the problem.

This basic rule does not apply where the applicant presents a case which will be reviewed by a regional administrative body, such as the Social Security Administration Office of Hearings and Appeals or the Family and Social Services Administration or where a case would be appropriately filed in federal court. In those situations, the applicant shall make an application with the office in whose service area the applicant lives. Assignment of the case will then be made with consideration of the site of any hearing.

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## **250.00 Client Referrals To and From Other Programs**

From time to time, we are contacted by applicants who have legal problems that require resolution in areas covered by other legal services programs, or who reside in areas covered by other legal services programs, or other legal services programs request us to assist with a case that requires resolution on our coverage area. The following will describe the procedure to be used in handling these cases.

When applicants contact us who have legal problems that require resolution in geographic areas our program does not cover, a regular intake should be processed through the group case acceptance system. If the case must be resolved in another state, we will provide the applicant with contact information for the program covering the area in which the problem can be resolved. If we have conducted an intake, we will forward the intake information to the relevant program, after receiving the applicant's permission to do so, and ensuring that the other program has no conflict.

When applicants contact us who reside in areas covered by other legal services programs because their legal problems are best resolved in our coverage area, we should conduct an intake and the application should be considered at group case meeting. If necessary, we will seek assistance from the program in whose service area the client resides.

When other legal services programs request us to assist with a case of one of its clients that requires resolution in our coverage area, the request should be directed to the group case acceptance committee of the appropriate ILS office which will consider whether or not to assist with the case and, if so, make a casehandler assignment. Our specific role will vary from case to case and can range from being primarily responsible for the case to acting as nominal local counsel.

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## **260.00 Representing Group Clients**

A group client is defined as two or more eligible individuals other than spouses or parent/child who are represented by the program in an effort to resolve a legal problem or set of closely related problems shared by those being represented. However, casehandlers should identify a case as being that of a group client only when the group's interest, as distinguished from the various, similar interests of some or all of its

members, is being represented. This distinction will not always be clear. When questions arise, consult the Executive Director.

Different client eligibility rules apply to group clients. These rules are found in the ILS Eligibility Policies. The casehandler should clearly establish at the outset of representation who speaks for the group or what process will be used to determine the group's views. The Client Retainer Agreement should be modified or supplemented to reflect this understanding.

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## **300.00 CASE HANDLING**

### **310.00 Initial CaseHandler-Client Interview**

The casehandler is responsible for making an initial contact with his/her newly assigned client by the end of the second business day following the group case acceptance committee meeting at which the case was assigned. Circumstances of the case may require earlier notice. The purpose of initial contact, which can be by mail, telephone, or even personal visit, is to advise the client that the case has been assigned to the casehandler and to arrange a mutually agreeable time to conduct a thorough initial client interview.

The initial client interview should be scheduled promptly, taking into account the need for expedited action or any special needs or limitations on the client's part, such as infirmity, disability, or lack of transportation. It is preferable that the initial client interview take place in a face-to-face meeting, but the reality of modern legal services practice dictates that it will often need to occur by telephone. The casehandler should keep in mind that initial client interviews by telephone present extra challenges in creating a quality casehandler-client relationship. It should be an exceedingly rare case in which we undertake to provide formal representation to a client after having communicated with the client exclusively through the mail.

The initial client interview has several important functions. It sets the tone for the entire casehandler-client relationship by providing the first opportunity to establish a relationship of openness, trust, and mutual respect with the client. More specific goals of the initial client interview are to obtain facts about the case, to educate the client, to counsel the client, to clearly define the limits of the casehandler-client relationship, and to obtain informed client consent regarding any actions to be taken on behalf of the client.

While this manual cannot be a treatise on successful client interviewing techniques, the following is a brief checklist covering some of the most important points to be covered in an initial client interview, directed at clearly defining the relationship with the client:

1. Casehandler introduction;
2. Explanation of client confidentiality;
3. Fact-gathering;
  - a. Use of interview formats
  - b. Use of substantive law checklists;
4. Preliminarily inform the client of reasonable options with pros and cons;
5. Preliminarily assess the case;
6. Do not warrant or predict results;
7. Make a preliminary recommendation and explain the basis for it;
8. Clarify the client's objectives and obtain informed client consent on agreed course of action;
9. Educate client about chosen course of action and his/her role;
  - a. Court appearances
  - b. Formal discovery
  - c. Settlement
  - d. Realistic time frame
  - e. Expenses;
10. Uncover and correct misconceptions;
11. Clearly establish any limits upon the relationship;
12. Anticipate conditions for future withdrawal:
  - a. Keeping casehandler informed of whereabouts
  - b. Client cooperation
  - c. Possibility of determination of lack of merit upon further investigation
  - d. Change in eligibility status
  - e. Representation limited to specific phase of case.

Beyond the above checklist, there are specific casehandler obligations in conjunction with the initial client interview.

1. The casehandler shall recheck all aspects of client eligibility, including obtaining verification of citizenship or alien eligibility. See Section 220.00.
2. The casehandler shall identify all adverse parties and check conflict of interest as to any adverse parties not previously checked during the initial intake process.
3. The casehandler will explain to the client and secure the client's signature upon the appropriate, completed client retainer agreement (Form 310.00A). Typically, the client retainer agreement should explicitly restrict representation to the current procedural stage of the case, e.g., administrative hearing, trial court representation, and note that further representation at later stages may be provided after only reevaluation of the case at the conclusion of the current state of the case. As conditions of representation evolve, the initial client retainer agreement should be replaced by a new retainer agreement accurately memorializing the scope of the casehandler-client relationship.
4. The casehandler will have the client execute a sufficient number of Release of Information forms (Forms 310.00B-1 and B-2), in order to permit obtaining necessary documents or other information from third parties.
5. When the primary casehandler is a paralegal, the casehandler will have the client acknowledge by signature the paralegal Disclosure Forms (Form 310.00C). The fact that the casehandler is a paralegal and not a lawyer shall also be explained to the client verbally.

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### **320.00 Case Opening**

Promptly after the group case acceptance meeting, for cases that are to be accepted for full representation, and therefore put into a file folder, the casehandler shall fill in the appropriate information on the intake sheet and provide it to the designated support staff person, whose responsibility it is to set up a new client file and provide the opened case file to the primary casehandler. The appropriate changes must be made to Legal Files, including the accept date and notation of casehandler.

In general, no case file is to be opened on a new client or a new matter for an existing client unless the case has been accepted by the group case acceptance committee or the variation adopted by the managing attorney and assigned to the primary casehandler in whose name the file is to be opened. However, emergency cases may require the opening of a case file before the group case acceptance meeting.

A case is defined as a legal problem (or set of closely related legal problems) of a client, and the legal activities or processes used in resolving those problems. A client may generate one or more cases from a single interview or by returning for services at a different point in time. At any time a client presents multiple cases or a new case, a new case file shall be opened for each matter after being processed through the group case acceptance committee. The program has no obligation to provide representation to

each client on every separate case presented. However, we must be sensitive to the interconnectedness of many legal problems and to take care in declining representation on a matter that may affect our representation on a separate legal matter. Staff must open separate case files for each separate matter upon which representation is being provided to a single client, but cannot open two separate files for the same legal matter. If a client returns with the same legal problem later in the year after a case has been closed, that case must be re-opened. For further explanation about what is the same legal problem, refer to the CSR Handbook. [2001 CSR Handbook](#)

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### **320.10 Case Management Documentation**

All cases that are accepted, closed or rejected must have information about the case in Legal Files. Each casehandler is responsible for ensuring that data in Legal Files connected to their cases is accurate, including client information, dates and codes for case type, acceptance and funding source. Each casehandler shall review monthly reports about their cases, and shall have any mistaken information corrected immediately. Support staff and office managers shall assist in ensuring that case management data is accurate.

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### **330.00 Client Representation**

At the outset of providing representation to the client, it will frequently be appropriate to send the client an engagement letter, summarizing the key points that were covered in the initial client interview, giving particular attention to client responsibilities and limitations upon the scope of representation. The following is a checklist to guide in the preparation of an engagement letter to a client.

1. Introduction and general description of matter;
2. Identify primary casehandler;
3. Identify other associated casehandlers;
4. Specific areas of representation;
5. Specific exclusions from representation;
6. Any additional parties included in the representation;
7. Any additional parties to the matter who will not be represented;
8. Costs to clients;
9. Other client responsibilities;
10. Possibility of future withdrawal;

a. Change in eligibility status

b. Conflict of interest

c. Other, as applicable.

11. Enclose copy of retainer agreement and any necessary release or appointment forms

Any futures changes in the substance of the casehandler/client agreement should be discussed with the client and documented by a confirming letter. If appropriate, an amended client retainer agreement shall be executed.

Promptly upon the opening of a case, in all but highly routine cases, the casehandler shall prepare a brief opening memorandum, using the attached Form 330.00A, or the functional equivalent, e.g., memorandum to file. This memorandum shall always be secured on the inside portion of the case file. The purpose is to provoke organized thinking about the case at the outset and to create a ready reference document to the essential elements in the case for the casehandler's supervisor and other casehandlers who may need to use the file.

All casehandlers will utilize a case log, or the functional equivalent, to record all events and progress of significance in each case. The case log will be kept on the attached Forms 330.00B and 330.00C on the left inside part of each file.

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### **330.10 Standards for Paper File Maintenance**

Client files are unique and irreplaceable. Uniform standards for file maintenance must be followed in order to ensure the integrity of client files. Good file maintenance practices guard against file or document loss or misplacement and enhance the efficiency of all who may need to rely upon a file.

There are four tests for good file maintenance practices:

1. Are all significant events in the life of the case documented in the file?
2. Can any document be located immediately, at any time, and on short notice?
3. Can any file be located immediately, at any time, and on short notice?
4. Can another staff person, in your absence, find a file, determine the essential elements of the case, determine the current status of the case, and determine the plan for the case in a reasonably short period of time?

Documentation of significant case events can occur in a variety of ways. The key point is that all significant events be documented in some fashion in order to create a file that reflects the progress and status of a case without the need to rely upon substantial oral embellishment by the primary casehandler. Complete documentation also establishes a record to rely upon in the event the client is dissatisfied with the handling of a case. Some of the more common documentation methods are:

1. Memoranda to the file of contacts (see suggested Form 330.10A);
2. Notes in the case log;
3. Confirming letters;
4. Other correspondence.

Routine ILS case files should be kept with pleadings, correspondence and other case documentation secured by a top binder to the right hand side of the file jacket and placed in reverse chronological order, with the opening file memorandum at the back. The case log and intake sheet should be secured by a top binder to the left hand side of the file jacket. Exhibits and other pieces of loose documentation should be placed in an envelope and stapled or bound to the left hand side of the file jacket. Special care must be taken for the security of unique or important documents and, when possible, the originals should be left in the custody of the client. In larger case files, important pleadings or other documents should be tabbed and indexed for quick reference. Files must be kept neatly and consistently, without loose papers that can become lost or disorganized. Unnecessary clutter should be kept out of case files. Unnecessary duplicates should be eliminated or, when necessary to be kept, marked as duplicates. Unnecessary preliminary drafts should be eliminated or, when essential to be kept, should be marked (e.g., "DRAFT 3-1-04"). Case documents should be filed promptly in the jacket, rather than being permitted to accumulate on the casehandler's desk or in a filing basket. When a document of any significance is removed from a file for all but the briefest period of time, a document removal memo should be prepared and inserted in the file at the location of the removed document. See Form 330.10B.

As cases become more complex, the need for good file maintenance practices likewise increases. In cases with more than one assigned casehandler, the primary casehandler or lead counsel is ultimately responsible for the maintenance of a master case file. All casehandlers assigned to the case must be familiar with the master file organizational system and know where to locate the master file at any time. The use of document removal memoranda must be followed and all removed materials must be promptly refiled.

ILS uses a centralized file storage system for closed cases and a decentralized system for open cases. Closed cases must be stored where they are readily retrievable and filed by case or archive number. The more recent the date of closing, the more easily retrievable a file must be. Any closed file that is removed for use must have a check-out card placed in the position where the removed file was located. See Form 330.10C.

Each casehandler keeps his/her open files in his/her office. Open files must be stored alphabetically by client last name and be located in discrete and well marked file drawer or drawers in the casehandler's office (e.g., "OPEN CLIENT FILES"). It is not an acceptable practice to have open client files littered about one's office. All staff members who regularly need access to open client files, e.g., managing attorneys, supervising attorneys, paralegals, secretaries, should be thoroughly briefed by the primary casehandler on the open file storage system and files should always be stored consistent with the system. Casehandlers should not take open case files out of the office when they are away from the office for extended periods of time, such as on vacation. Client files are not the property of the assigned casehandler and should be available at all reasonable times to the casehandler's supervisor.

Casehandlers' offices are to be maintained in a neat and organized condition. This serves several important purposes. It permits other staff people to quickly locate needed files in the casehandler's office in his/her absence. It guards against the loss or misplacement of files and promotes casehandler efficiency. Finally, and importantly, it conveys an atmosphere of organization and professionalism to clients and protects the confidentiality of client files.

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### **330.20 Documents Required in the File**

Each case opened for full representation shall include the following:

1. Income eligibility determination;
2. Asset eligibility determination;
3. Citizenship attestation or immigrant eligibility documentation;
4. Statement of Facts (when applicable);
5. Retainer agreement; and
6. Reported for Case Disclosure.

Each of these items are explained elsewhere in this section.

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### **330.30 Client Communications**

Good client communications are fundamental to an adequate casehandler-client relationship. Virtually every study reveals that the most frequent cause of client dissatisfaction, including disciplinary grievances and malpractice actions, is poor client communications. The client has a right to be kept well-informed of the progress of

his/her case, and any significant case developments should be communicated to the client. Copies of all correspondence and court papers to the client should be sent to the client. Important advice to the client should always be given both orally and in writing.

No matter how inactive a client's case, as long as it is open, there should be some form of communication with the client at least every ninety days. This may be a short letter stating that there have not been any significant case developments since the last contact with the client and inviting the client to communicate anything of significance that the client has learned.

Telephone messages from clients must be returned by the casehandler or some designated person on his/her behalf within 48 hours, at the latest. Telephone callers should be advised of the casehandler's absence, and those calls that cannot await the casehandler's return, should be handled by the designated back-up person. If the casehandler is away from the office, instructions should be left with a secretary or other back-up staff person to make sure the casehandler's mail is monitored. When casehandlers are out of the office, a designated person on the office staff must be informed of the casehandler's whereabouts and provided with a method of contacting the casehandler by telephone. If a casehandler is gone overnight, including on vacation, the casehandler should check in with the office periodically, especially if the casehandler is not readily available by telephone.

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### **330.40 Client Responsibility in Decision-Making**

All casehandlers must be constantly vigilant to protect the client's role in the decision-making process. The standard is that any significant actions taken on the client's behalf must be with the client's informed consent. In making decisions affecting the progress of the case, the client must be advised of all reasonable alternatives and of the risks and benefits associated with each alternative. No casehandler may ever settle a case without the client's consent.

It is appropriate, and indeed encouraged, that casehandlers, applying their professional judgment and *not* their personal values, recommend a course of action to the client. In so recommending, the client must be provided the facts and reasoning underlying the recommendation. It is important that the client be provided a clear opportunity to express any concerns and raise any questions about the casehandler's recommendation and about any decision that the client is called upon to make.

In order to obtain informed consent from the client, there should be no ambiguity about the client's choice and the client's decision should be confirmed in writing. As to routine or technical matters, client consent need not be obtained, but casehandlers should be guided by the rule that if there is any doubt, client consent should be obtained.

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### **330.50 Calendaring and Deadline Control**

ILS has an ethical and legal obligation to provide prompt, high quality assistance to its clients. Yet time related errors are one of the most frequent sources of malpractice claims. In order to reduce the risks of time-related errors, each case handler and each office must have in place calendaring and deadline controls systems. Each individual casehandler must maintain a calendar upon which will be recorded, minimally, all appointments, all due dates for court or agency filings, and all court or agency hearings. In addition, each office, unit or project shall maintain a perpetual calendar-type tickler system, upon which will be recorded, minimally, all statutes of limitation and other jurisdictional deadlines, all appointments, all due dates for court or agency filings, and all court or agency hearings. It is the responsibility of each supervisor to ensure that casehandlers enter all appropriate dates into the tickler system. Each week, a copy of the tickler dates for the following week for each casehandler will be provided to the casehandler, his/her secretary, and his/her supervisor.

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### **330.60 Appearance on Behalf of Clients**

Casehandlers are expected to appear at all court or agency hearings on time and well prepared. Scheduling conflicts must be identified well in advance, and a substitute casehandler arranged or a timely continuance obtained. It is never acceptable to miss a court or agency hearing or even to be late. Casehandlers should be attired in a professional manner at all court or agency appearances, for all client contacts, and at all other times that the casehandler is in the office during normal business hours. All office staff should be appropriately attired.

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### **330.70 Timekeeping**

The Legal Services Act requires that all attorneys and paralegals keep time, recording all time spent on cases, matters and supporting activities. All attorneys and paralegals must keep contemporaneous time according to the guidelines described in the LSC Regulations and the Time-keeping manual.

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### **330.80 Statement of Facts**

The Legal Services Act requires that a Statement of Facts be signed by all clients prior to filing a complaint, participating in litigation against a defendant, and/or prior to engaging in pre-complaint settlement negotiations with a prospective defendant. Each attorney will ensure that a Statement of Facts is executed and maintained in the client's file and in a central office file according to office procedures in all appropriate cases. A dated and signed verified complaint shall be sufficient for these purposes.

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### **330.90 Case Disclosure**

ILS must file a Case Disclosure semi-annual report with the Legal Services Corporation. In order to facilitate this process, any attorney who files a complaint on behalf of a client in any court, or files an appeal on behalf of a client whom we did not represent in the trial court, shall provide information required in the case disclosure report to the office manager or other person designated by the managing attorney. (Form 330.90A) This information shall be made available at the time of the filing.

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### **330.100 Monthly Reports**

Each office shall generate monthly case management system reports. These reports shall include: open case report; closed case report; office time-keeping report; and office activity report. These reports shall be reviewed by the casehandler, his or her supervisor, the project director (if applicable), the managing attorney and the Executive Director or his designee. Any mistakes or missing information shall be immediately corrected. Any cases included on the open case report that should be closed should be immediately closed.

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### **340.00 Litigation Costs Policy**

1. Each ILS office has a modest litigation fund. The Office of Administration also has a litigation fund. In general, costs in routine cases should be paid out of the respective office's litigation fund, and costs in non-routine cases (as defined in Section 710.00) should be paid out of the administrative budget.
2. All decisions regarding the expenditure of funds at the local office level shall be made by prior request to and approval by the Managing Attorney.
3. In non-routine cases, when it is expected that program funds will be spent to cover costs of litigation, at the time of seeking approval for filing as described in Section 730.00 lead counsel will submit a budget of expenses to the Executive Director. The Director will review the proposed budget and approve it or meet with lead counsel to discuss modifications. Copies of the approved budget shall be maintained by lead counsel, the Executive Director, and a copy sent to the comptroller.
4. At any time lead counsel becomes aware that expenses for a non-routine case will exceed the budget amounts, lead counsel shall submit an amended budget to the Executive Director. In no event shall counsel in a non-routine case commit the organization to expending funds which are not included in an approved budget.
5. ILS attorneys should attempt to get the court/agency to waive all filing fees, witness fees (including mileage), and appellate costs (transcript, record, etc.) in appropriate cases through the timely filing of an appropriately supported *in forma pauperis* petition and affidavit. Alternatively, the ILS client shall pay all of the costs/fees, or the organization will pay litigation costs, if in conformity with this policy.
6. Whenever ILS attorneys prevail in litigation, they shall always seek reimbursement from the losing party for all costs allowed by law. All costs actually collected will be credited to the general budget of ILS.

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### **350.00 Client Trust Accounts**

Each ILS office shall maintain a segregated client trust account in which will be held all client funds advanced for costs of any case, all client funds deposited toward the settlement of a case, and all funds received from an adversary for payment to a client. Each office shall maintain an account of all such funds which will provide immediate and accurate information on the amount of money held and purpose for which it is held on behalf of each client. All funds held by the office in the client trust account and due to the client shall be promptly returned to the client at the close of the case. Costs paid by the program on behalf of a client who is without funds must be paid from program funds and never from funds held in trust for other clients. Further, each client trust account shall be maintained consistent with all requirements of the Rules of Professional

Conduct, all requirements of the Interest on Lawyers Trust Account (IOLTA) rules, and all other requirements of the Indiana Supreme Court as well as ILS's accounting policies and procedures.

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### **360.00 Case Closing**

Upon conclusion of representation of a client, the case shall be promptly closed. All cases must be closed in the year in which work on the case ceases. If, however, the casehandler reasonably believes that closing the case will prejudice the client or if the casehandler reasonably anticipates future action, the case may be kept open and a note made in the file.

Upon the written approval of the managing attorney or project director and the Executive Director, an attorney employed by ILS for more than four (4) years or with comparable legal experience elsewhere, may close cases without review or approval of his/her supervisor. In the event that such approval is given, the attorney shall close the case in accordance with the procedures and utilizing the forms indicated below. For non-attorney casehandlers and attorneys employed less than four (4) years or attorneys who do not have permission from their managing attorney or project director and/or the Executive Director, cases may be closed only after review and approval by the casehandler's supervisor. Non-attorney casehandlers and attorneys who do not have permission as specified above also must have their limited service cases reviewed and approved before closing.

It is the primary casehandler's responsibility to prepare and organize the case for closing. This includes:

1. Noting on the Case Closing Memo (for cases F-K), and in Legal Files, the proper codes for Major Reason Case Closed and for Legal Problem, and the Outcome Code, the name of the casehandler closing the case, the date of the case closing, and any designation and notes on significant cases.
2. Organizing the file according to the rules of organization described in Section 330.10, taking care to remove all unnecessary materials and seeing that it is otherwise complete.
3. Assuring that a final communication has been made with the client and that there is no reasonable basis for the client to believe that representation will continue.
4. In appropriate cases, obtaining a withdrawal of appearance in a proceeding in which the casehandler has formally appeared on behalf of the client.
5. Billing the client for any outstanding expenses and returning any unexpended client funds to the client.
6. Returning any important papers or exhibits to the client.

7. Preparing a closing memorandum on other than restricted service cases. See Form 360.00A. This memorandum shall be secured within the file and shall be the open document on the right hand side.
8. Making sure the case file contains a signed client Declaration of Citizenship, and a signed Retainer Agreement, and that information about all adverse parties has been entered into the conflict of interest system.
9. Making sure the file includes complete information regarding income, assets and other case management codes.
10. Purging the file of unessential materials. This includes returning all original documents, photographs or other materials to the client. Purging involves the exercise of professional judgment and discretion: keeping those important papers which demonstrate competence, diligence and good communications with the client, while removing duplicates and similar unimportant papers. To be considered for possible removal are the following: legal research notes, photocopies of statutes, regulations, or cases, telephone slips, document drafts, unsigned orders, extra photocopies and the like. If such papers may be useful for other cases, they may be stored in the casehandler's or office's reference files. The Case Closing Memorandum (Form 360.00A) requires the casehandler to indicate that this has been accomplished, and all supervisors are expected to review cases submitted for closing for compliance.

Supervisors are responsible for promptly reviewing and approving for closing their supervisees' client files. Cases should be reviewed for closing as supervisees make them available and not allowed to accumulate. This is especially important in limited service cases in order to permit the correction of any inappropriate advice before the passage of time prejudices the client. The closing review shall assure that the case file reflects compliance with points 1 through 8, above.

In the event that an attorney is exempted from supervisor approval of closed cases, the supervisor shall inquire into the attorney's diligence in closing cases and otherwise complying with case closing requirements during any periodic performance evaluation. The supervisor shall use monthly case reports to review cases that remain open for long periods of time.

In coding the intake sheet for Major Reason Closed, the following definitions shall apply:

| <b>TERM</b>                               | <b>DEFINITIONS</b>   |
|---|--|
| A - Counsel and Advice                    | Preparing and providing advice to the client, e.g., reviewing relevant information and counseling the client on action s/he might take to resolve the issue. |
| B - Brief Services(other than Counsel and | Action taken at or soon after intake on behalf of a client that resolves a case, e.g., preparing a short letter, making a telephone call.                    |

|   |   |
|---|---|
| Advice)   |   |
| C - Referral After Legal Assessment<br><u>This code should not be used.</u>   | This category should be used when during the course of the case, it is determined that new information or new developments of the case prevent the program from continuing to handle the case and the case is referred <u>outside</u> the program (e.g., to a social service agency, or, due to a conflict of interest, to a private attorney). |
| D - Insufficient Merit to Proceed   | Although the applicant is accepted as a client, new facts and circumstances arise that disclose that there are no legal grounds upon which to pursue the issue.   |
| E - Client Withdrew or Did not Return<br><u>This code should not be used.</u> | This category includes cases where the client failed to return to the program during the course of the case and could not be contacted by the program. Use the next most appropriate code.  |
| F - Negotiated Settlement Without Litigation                                  | This applies to those cases which are resolved through negotiation prior to the initiation of a court or administrative action.   |
| G - Negotiated Settlement With Litigation                                     | This applies to those case which are resolved through negotiation during a court or administrative action, e.g., a resolution of a dispute after suit has been filed.   |
| H - Administrative Agency Decision  | This applies to all cases which are resolved as a result of action by an administrative agency or body, e.g., a welfare department  |
| I - Court Decision  | This applies to all cases which are resolved as a result of action by a court.  |
| J - Change in Eligibility Status  | After an applicant has been accepted as a client, it is found that the client no longer meets ILS's guidelines because of new circumstances, e.g., employment or income changes.  |
| K - Other   | Any other reason for closing a case. The reason must be noted in the file.  |

All cases that are closed and receive a closing code must be in compliance with the CSR Handbook.

All cases that are closed with a closing code F - K must also receive an Outcome Code (See Appendix 360.00B).

All withdrawals of appearance must be consistent with the Rules of Professional Conduct. The ethical standards for withdrawal apply equally to situations where the next step in a case, e.g., judicial review or appellate review, is not to be pursued on the client's behalf. To the extent possible, future conditions that will bring about a withdrawal from representing the client should be anticipated and built into the limits of the casehandler-client relationship at the outset. Some examples of frequently recurring reasons for withdrawal that should be anticipated are:

1. Failure of the client to cooperate;
2. Failure of the client to keep casehandler advised of whereabouts;
3. Determination of lack of merit after full investigations;
4. Limited representation to certain stages of a case, e.g., administrative process only; and
5. Change in client eligibility status.

The method of communicating an intent to withdraw from representation of a client is important, especially if the client is faced with a jurisdictional or other significant deadline. Some guidelines are:

1. State clearly that representation will cease and when;
2. Notify client at earliest possible opportunity;
3. Encourage other representation and how it can be obtained;
4. Identify clearly the steps required if the case is to continue. "Red flag" jurisdictional deadlines and explain the significance;
5. Supply client with all papers necessary to pursue case. Retain copies or specify the papers delivered clearly in a letter;
6. Communicate in writing. Make personal delivery or mail certified, return-receipt requested.
7. Seek leave of court well in advance of any significant event or deadline.

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### **370.00 Case Transfers and Departing Casehandlers**

Any time a case is transferred to another casehandler for any reason, including the assigned casehandler leaving the employment of ILS, the following must occur under the direction of the Managing Attorney or designee:

1. The original casehandler shall notify the client in writing that the case is being transferred, the reason for the transfer and the name of the casehandler to whom the case is being transferred. The client should formally be extended the opportunity to seek other counsel if the transfer does not meet with the client's approval.

2. The original casehandler shall prepare a case transfer memo, following the attached Form 370.00A. If more complete information is required, the form need not be used, as long as the memo includes the content called for by the form.
3. The change of casehandler shall be promptly entered in Legal Files.
4. Any formal appearances on the part of the original casehandler shall be withdrawn and the appearance of the new casehandler shall be filed. This can be done in the form of a single substitution of appearance notice, signed by both case-handlers.
5. The new casehandler shall be given physical custody over the complete case file.
6. The new casehandler shall set up an introductory interview or telephone call with the client.
7. In the case of a departing casehandler, s/he shall prepare a master list of all of his/her transferred cases, listing each client and the name of the casehandler to whom each case was transferred. This master list shall be given to the managing attorney and to all appropriate staff.

A departing casehandler may take a program case with him/her if the program determines that such action is in the best interest of the client and if the client consents. If a departing casehandler desires to continue an involvement with a program case after his/her departure, it may be on a co-counsel basis with an ILS casehandler. If an ILS attorney continues to co-counsel the case or if the departing casehandler takes the case pro bono, then the case should remain an open ILS case. If, however, the casehandler takes the case without any future involvement of ILS, the case should be closed appropriately.

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### **370.10 Absent Casehandlers**

When any casehandler is to be absent from the office for more than two days, s/he shall arrange to have some staff person open and read his/her mail, including email, and monitor any telephone messages. The casehandler's voice mail box greeting shall indicate the date of return and the name of the staff person whom the caller can contact if needed. In addition, s/he shall arrange for another casehandler to cover for him/her in the event of any emergencies or significant case activity. If the casehandler expects to be out of the office for more than one (1) week, s/he shall make a list of all open cases and indicate on the list any expected action in the case, as well as any instructions. The casehandler shall advise the office how s/he can be located by telephone and shall call into the office periodically.

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## **380.00 Case File Retention and Destruction**

This section discusses the retention and destruction of case files after closing. The purpose of this policy is to reduce the amount of space ILS is required to maintain for storage of old case file materials. Because this policy calls for the destruction of case files after a period of time, it is crucial that copies of important papers be provided to the client during the course of representation (see Sec. 330.20) and that original documents be kept in the custody of the client (see Sec. 330.10).

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### **380.10 Closed Cases**

At the time of case closing, the assigned casehandler, with supervisor review, must designate the period of time after which the case file may be destroyed. This is to be done on the Case Closing Memorandum (Form 360.00A). Unless a longer period of time is designated, case files, including restricted service files, will be subject to destruction after a period of seven (7) years from the date of closing.

If a case is to be retained longer than seven (7) years, the casehandler should specify a date after which it may be destroyed or indicate that it should be retained indefinitely. There should be a brief note explaining why the file should be kept longer than seven (7) years.

At the time of closing all relevant information is to be entered into the Legal Files system.

If during the course of time after a case file is closed, a casehandler determines that the existing file destruction date should be extended, a memorandum should be inserted in the file to that effect.

Generally, the following types of cases should be retained longer than seven (7) years.

1. Class action cases granting injunctive relief to a "future" class. Case files of this type should be retained indefinitely.
2. Cases where the client is less than fifteen (15) years old at the time of case closing. Case files of this type should be retained until two (2) years after the date on which the client turns eighteen (18).
3. In cases where we have prepared a will and had it executed, a file copy of the will shall be maintained in a separate will file in the office, arranged alphabetically by last name of testator. The office will file shall be maintained indefinitely, but

the case files pertaining to those wills can be destroyed in the normal seven (7) year cycle.

4. Other cases as appropriate.

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### **380.20 Rejected Cases**

Materials pertaining to rejected cases shall be retained for at least two (2) years, after which they may be destroyed. Under no circumstances shall original materials supplied by the client applicant be retained with the rejected case materials. All original materials shall be returned to the rejected client applicant.

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### **380.30 Case File Destruction**

As frequently as the space needs of an office require, case files that have been closed for longer than seven (7) years may be destroyed, unless otherwise designated. Case files must be destroyed in a fashion that will preserve client confidences, such as by shredding or incineration. Each office will need to inquire locally to determine the most economical and secure means of doing this.

When a case file is destroyed, the date of destruction shall be noted in a permanent record.

The managing attorney of each office should develop some reasonable method of assuring the files that should be retained are not destroyed. The managing attorney of each office should supervise the destruction of case files. When a case file is destroyed, the date of destruction shall be notified in Legal Files, along with other significant identifying data (e.g., cause number).

Some offices have a large backlog of case files that are appropriate for destruction. Unfortunately, there may be files among them that should not be destroyed or that contain materials that should not be destroyed.

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## **400.00 CASE SUPERVISION**

Each casehandler at ILS is to have an assigned legal work supervisor. ILS is committed to providing initial and ongoing supervision and training to assure that casehandlers acquire and continue to develop the skills necessary to provide high quality representation.

Supervisors must be responsive to the supervisory needs of casehandlers assigned to them, and casehandlers should insist on receiving adequate supervision. New casehandlers are expected to need intensive supervision in order to become effective client advocates, and they should not be afraid to ask for it and, in fact, should demand it. Supervisors will be expected to provide legal work supervision that ensures compliance with the requirements of this Legal Work Management Manual.

Supervisory techniques will vary dramatically with the skills of the supervisor and the needs of the supervisee, but are to include the ongoing, informal exchange of information about cases, responding to supervisee questions as they arise, co-counseling cases, formal case reviews, supervisor feedback after reviewing cases for closing, formal employee evaluations, and the use of individual development plans.

In addition to the formal supervisory structure, all case-handlers are expected to seek out the assistance of colleagues to help solve problems after having attempted to solve problems on their own. All casehandlers, especially experienced staff, are to be responsive to the informal requests of colleagues for assistance. Each staff person must be respectful of the needs of others to structure their time and, accordingly, limit accessibility to some extent.

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## **410.00 Supervision of Paralegals**

Because paralegals are not licensed to practice law in Indiana, there are a variety of considerations and requirements unique to the supervision of casehandling paralegals. First, every casehandling paralegal must be directly supervised by an attorney admitted to practice law in Indiana, since the end result of much paralegal casehandling is the delivery of legal services to clients. Second, in every case in which a paralegal is the primary casehandler, the client must be informed of the paralegal's status and requested to acknowledge by signature the ILS Paralegal Disclosure Form. See Form 310.00C. Third, every file opened in the name of a paralegal as primary casehandler must also include in the case opening materials and Legal Files a designation of the supervising attorney. Fourth, in each such case, there must be close, on-going supervision of the work of the paralegal on every case by the supervising attorney. This is especially true when the case involves making determinations of the legal merits of a case or in developing the legal issues and strategies to be pursued in a case.

There are some instances in which paralegals are permitted by applicable law to provide direct client representation, e.g., Indiana Family and Social Services Administration fair hearings, Social Security Administrative hearings. There are other instances in which there is a formal certification process for lay representatives, e.g., accredited representative status through the Board of Immigration Appeals. Although these situations exempt such representation from being the unauthorized practice of law, the paralegal must continue to be supervised by the supervising attorney consistent with all formal supervisory requirements and to the extent required by the paralegal's skills, experience and training.

The details of paralegal responsibilities and supervision cannot be provided, in that they will vary with the skills and experience of the paralegal, the skills and experience of the supervisor, the responsibilities of the paralegal and the quality of the working relationship between paralegal and supervisor. In general, less experienced paralegals will require more intensive supervision. In any event, supervising attorneys must be accessible to their paralegal supervisee at reasonable times and with reasonable frequency.

As noted in Section 720.00, formal co-counseling by a less experienced paralegal and a more experienced paralegal or attorney should frequently be considered as a method of developing the skills of the less experienced paralegal. In instances where the paralegal has been assigned a case which is likely to lead to litigation, the supervising attorney will be expected to maintain a working knowledge of the developments in the case through formal and informal exchanges of information. This exchange will ensure that the case will be promptly transferred to the supervising attorney at the time and in the manner that will facilitate a smooth transition. Similarly, in circumstances where a case is likely to result in an administrative hearing, the supervising attorney is expected to be aware of the facts and issues in the case and to provide assistance necessary to the paralegal who will handle the hearing.

The requirements of the Rules of Professional Conduct extend to the paralegal, in that the supervising attorney is charged with responsibility for the ethical conduct of his/her non-attorney supervisee. Paralegals, shall read the Rules of Professional Conduct, and with the assistance of their supervising attorneys, should have a clear understanding of the following matters:

1. **Responsibility for Forming the Attorney-Client Relationship.** Attorneys may not delegate to paralegals the responsibility for establishing the attorney-client relationship. In practice this means that it is the lawyer who must decide for each case assigned to the paralegal whether the client's case will be accepted and what type of assistance the client will receive. The supervising attorney may make this decision at the group case acceptance meeting or during an individual consultation with the paralegal. Under no circumstances may a paralegal accept a client for representation or advice without advance permission of the paralegal's supervising attorney.

2. **Client Confidentiality.** Client and applicant confidentiality must be maintained at all times. Disclosures of confidential client communications must occur only with the prior, express approval of the client. The scope of client confidentiality extends to all information gained while working on the client's case.
3. **Evaluation of Legal Merit.** Assessment of the degree of merit or lack thereof of a client/applicant's case should not occur without consultation with, and approval by, the paralegal's supervising attorney.
4. **Communication of Legal Rights.** Communications to clients/applicants regarding their legal rights should generally occur only after consultation with the paralegal's supervising attorney. There are circumstances in which a paralegal is sufficiently expert in area (and, indeed, may have more expertise than any lawyer on staff) that he/she may advise clients/applicants of their legal rights without prior consultation with the supervising attorney. These circumstances should be clearly agreed upon between the paralegal and the supervising attorney; the paralegal should consult with the supervising attorney on any non-routine matters; and the supervising attorney should evaluate the quality of the paralegal's communications with reasonable frequency.
5. **Giving Legal Advice.** The recommendation to a client/applicant of a specific course of action for the client/applicant to take, with or without further legal representation, based upon an evaluation of the legal rights and responsibilities of the client/applicant should occur only after consultation with and approval by the paralegal's supervising attorney.
6. **Drafting Legal Documents.** A properly trained paralegal may draft or fill out legal documents or forms, including, but not limited to, contracts, wills, deeds, and papers to be filed with the courts or agencies. However, such documents may not be used, executed, or otherwise relied upon by clients, courts or agencies, unless and until they have been reviewed and approved by the paralegal's supervising attorney.

Consistent with the Rules of Professional Conduct, the paralegal is severely limited in terms of decision-making and actions on a client's behalf. However, the paralegal can have a great deal of responsibility, provided that the paralegal and the supervising attorney keep avenues of formal and informal communication open. As to ethical concerns, when in doubt, the paralegal shall consult with the supervising attorney, and the supervising attorney should welcome such inquiries.

To assist the paralegal in avoiding the unauthorized practice of law, special attention must be focused on limited service cases assigned to paralegals. Especially with less experienced paralegals, the supervising attorney must work closely with the paralegal to ensure that incorrect or misleading advice is not given to clients. While this will include discussion in advance of the advice to be given and review of the advice that was given, the specifics of such supervision must be left to the individual paralegal and supervising attorney.

All correspondence by paralegals with clients that consist in whole or in part of the giving of legal advice must be reviewed by the supervising attorney before mailing. In

instances where the legal advice to be given to the client is complicated, or when the client is receiving advice that could be challenged, the advice letter should be co-signed by the supervising attorney.

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## **420.00 Periodic Case Review**

All casehandlers will have a supervisor who will be responsible for personally reviewing all open case files of the casehandler at least as frequently as the following schedule requires:

### NON ATTORNEY EXPERIENCE CASE REVIEWS

First year  
Second year  
Third year  
Fourth year

### FREQUENCY OF

monthly  
every two months  
every three months  
every four months

### ATTORNEY EXPERIENCE CASE REVIEWS

First six months  
Second six months  
Second year  
Third year  
Fourth year and thereafter

### FREQUENCY OF

monthly  
every two months  
every three months  
every four months  
every six months

Attorneys who have been employed by ILS for more than four (4) years or who have comparable legal experience elsewhere, may have their case reviews dispensed with if this is approved in writing by their managing attorney or project director and the Executive Director. If case reviews have been dispensed with the managing attorney or project director and the casehandler should agree on other means of formal or informal case reviews than that indicated below. However, the managing attorney or project director retains the discretion to require the supervisee to return to regularly scheduled case reviews at any time and to schedule a one-time case review. Additionally, an otherwise exempted attorney may request a case review with his/her supervisor at any time and the supervisor shall promptly accommodate that request. In the event that an attorney is exempted from the scheduled regular case reviews, the managing attorney or project director, or his/her designee may randomly audit a cross section of the attorney's cases for compliance with the Legal Work Management Manual during any periodic performance evaluation.

The supervisor has the discretion to require more frequent case reviews. The casehandler is responsible for cooperating with the prompt scheduling of case reviews. All case review sessions shall be scheduled in advance, be free from interruptions, and take place in one session, rather than being done piecemeal over the course of two or more days.

Case reviews are to consider both individual casehandling and the overall workload of casehandlers. The supervisor will review individual casehandling by discussing each case file, constructively critiquing casehandler performance, and reaching appropriate decisions regarding the future of each case, (e.g., "complete discovery next month," "close the case," or "research x topic as a possible theory.") During the case review, the supervisor shall note pertinent information and decisions on the Case Review Form, Form 420.00A.

Prior to each case review, the supervisor shall generate an open case report, a closed case report, an office activity report and a timekeeping report for the period since the last case review. These shall be used during the review. The casehandler shall complete the Case Review Form, except for the item marked "Reviewer's Comments," for each case which has been opened since the last case review. With respect to cases which have been reviewed previously, but which are continuing, the casehandler shall update the appropriate items on the Case Review Form. Accordingly, there will be a Case Review Form for each one of the casehandler's open cases. These forms shall be kept in alphabetical order by the casehandler in a three-ring binder. After a case is closed, the closing date will be placed on the Case Review Form, and after the next case review, the Case Review Form will either be placed in a separate section at the back of the binder or in a different binder for permanent reference. At the conclusion of the case review, the attached Case Review Summary Sheet (Form 420.00B) will be completed by the supervisor or, at the supervisor's request, by the supervisee. A copy of the Case Review Summary Sheet will be placed in the front of the binder, a copy retained by the supervisor, and a copy given to the Executive Director.

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### **430.00 Caseload Control**

The Rules of Professional Conduct require both that a lawyer provide competent representation of a client and that the lawyer act with reasonable diligence. Caseload control considerations grow out of these twin ethical concerns. In assigning a case to a casehandler, we must be concerned not only with our ability to represent that client competently and zealously, but also with the impact of accepting that case upon our ability to represent our other clients competently and zealously.

The appropriate ceiling on caseloads is a little bit like obscenity, we can't define it, but we know it when we see it. In part, the difficulty with setting caseload ceilings is the

inability to take into account the infinite variations among both cases and casehandlers. One major case may consume the time it takes to handle 100 or more minor cases. One casehandler, because of experience, efficiency and other personal qualities, may be able to carry many more cases than another casehandler.

With these preliminaries, ILS rejects quantitative limits upon caseloads. Assuming that it is even possible to design a weighted caseload control system that accounts for most of the variables, the administrative cost of managing such a system is unacceptably high. However, the absence of a quantitative caseload control system makes it even more important that supervisor and supervisee be in constant communication regarding the ability of each casehandler to meet the minimum goal of providing competent and zealous representation to each client.

Each casehandler must promptly notify his/her supervisor when it becomes apparent that s/he is approaching the limits of his/her ability to handle his/her assigned caseload. Supervisors must make a careful assessment of the casehandler's caseload in these situations and design a plan to assist the casehandler in staying in control of the caseload, including consideration of withdrawing from the casehandler the assignment of new cases for a period of time. Additionally, each supervisor must independently be continually aware of the status of each supervisee's caseload and be ready to intervene with appropriate caseload control techniques in the event it becomes apparent that the casehandler is overloaded.

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## **500.00 MINIMUM PRACTICE STANDARDS**

### **510.00 General Office Conduct**

All ILS casehandlers shall act as professionals and take their work seriously and thoughtfully. It is critically important that an attitude of cooperation be established among all staff members. Accordingly, casehandlers are expected to treat all other staff members with dignity, courtesy, and respect. Elitism has no place at ILS. Casehandlers are expected and encouraged to share information regarding practice and procedure with other casehandlers and staff members. Casehandlers are also expected to assist other staff if the need should arise. It is important that casehandlers attempt at all times to maintain a good working relationship with all staff members. ILS casehandlers are often under a great deal of pressure due to demands from clients and their caseload. It is important to keep things in perspective so that a good working relationship is maintained in the office and everyone will be more effective in helping to reach our goal of providing competent legal services to our client community. A healthy, active sense of humor is always helpful.

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## **510.10 Personnel Policies**

All ILS casehandlers are expected to be familiar with ILS employment policies and practices as well as the entire ILS Board Manual. These documents represent the codification of ILS policy concerning restrictions on employees, hiring practices, benefits, vacation and sick leave, evaluation, LSC restrictions, etc. Such policies will not be repeated herein. Casehandlers should also be familiar with the LSC Act and regulations. (42 U.S.C. Section 2996 et seq. and 45 C.F.R. Section 1600 et seq.)

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## **510.20 Training**

ILS conducts many in-house training events for staff members. Casehandlers are encouraged to attend these training seminars, as well as appropriate training opportunities that become available outside of the program.

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## **520.00 Professional Responsibility**

### **520.10 Rules of Professional Conduct**

Each attorney/paralegal must be familiar with the Rules of Professional Conduct which can be found in the Indiana Rules of Court. Further, each attorney should review the lawyer discipline opinions of the Indiana Supreme Court as found in the Indiana advance sheets. Additionally, each lawyer should read the opinions issued by the Indiana State Bar Association's Legal Ethics Committee as found in Res Gestae.

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### **520.20 Prompt Action and Use of Time**

Casehandlers are expected to use their time effectively and to be well organized. Each client's problem should be handled promptly. The client's problem typically represents a crisis for him or her and the casehandlers should resolve that crisis as rapidly as possible, consistent with providing competent, high quality legal services. Each casehandler is responsible for noting all critical dates and for seeing that necessary action is taken at the proper time. If prompt action is not possible due to caseload size, it is the responsibility of the individual casehandler to bring this fact to the attention of his/her supervisor immediately.

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### **520.30 Confidentiality**

It is the duty of all staff members to preserve client confidences. Client secrets and confidences should be zealously guarded. A client's name should never be mentioned in any discussion out of the office.

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### **520.40 Vacations**

It is the duty of all managing attorneys to regulate a staggered vacation of the staff so the office is always able to function in a competent and responsive manner.

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### **520.50 Commitment of Time, Effort and Purpose**

The mission of ILS is to provide high quality legal services to the low-income community in Indiana. It is a given that the needs of our client community are greater than we can meet even when all staff are exerting maximum effort. If even some staff members fail to contribute fully, our mission could be damaged or jeopardized. Therefore, ILS casehandlers are expected to devote the time and the effort necessary to provide quality legal services.

An exact time commitment, in terms of hours per week, is impossible to formulate. The amount and the urgency of the work to be done will vary from week to week. However,

there are some general principles which may aid casehandlers in evaluating whether they are making a sufficient time and effort commitment.

First, all casehandlers must schedule some time for reading publications in her/his field, and to keep abreast of new developments in the law. This may require some evening and weekend hours, since the normal workday is often filled with court appearances, telephone calls, letter writing, reviewing, client conferences, and other work directly related to representing clients in contested matters.

Second, the ILS commitment to the poverty community requires, in addition to the above activities, the attendance by ILS casehandlers at various community meetings, open houses and social events. Such events often take place on evenings and weekends.

Using the above guidelines, most ILS casehandlers must put in an average work week of more than 37 1/2 hours. In addition, the nature of legal work oftentimes requires attorneys to devote more than their normal workweek to particularly important and/or urgent matters. Staff attorneys will be expected to comply with supervisors' requests that they spend longer than normal hours to complete such work. ILS work also requires the ability to perform gracefully and effectively under pressure and in emergency circumstances. Staff members are expected to perform duties beyond their job description in emergency situations when requested to do so by their supervisor.

Absent permission from the Executive Director, ILS casehandlers should observe regular office hours. Support staff should be informed of expected arrival and departure times, and location, if possible, of casehandlers and sign-in/sign-out procedures should be followed. Of course, casehandlers will, at times, be absent from the office during the greater portion of the day if they are involved in a court proceeding or an administrative hearing. It is incumbent upon casehandlers to check for messages during days when they are otherwise unavailable to clients.

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## **520.60 New Developments**

In order for ILS to provide effective legal services to its client community, ILS casehandlers must keep up with new developments in the law. The demands put on ILS casehandlers by their caseloads, which may include a range of routine to complex cases, office meetings, and their involvement with various community organizations or groups often leaves little time for casehandlers to read and absorb the daily new developments in the law. It is the responsibility of each casehandler to carve out portions of time from a usually hectic schedule to do this reading and self-educating. If this is not done, the quality of ILS representation will seriously suffer, the direct result of

which will be poor representation of our client community. Some methods of maintaining a working knowledge of new legal developments are:

1. Learn and regularly review the rules of evidence and civil procedure, both state and federal.
2. Learn and keep abreast of changes in local court rules for the state and federal courts.
3. Regularly read or review *U.S. Law Week*, advance sheets and other periodicals, publications and loose leaf services. Attorneys should pay particular attention to the decisions of the Indiana Supreme Court and Court of Appeals and the Seventh Circuit and Indiana's Federal District Court's as well as cases headnoted under such areas as the civil rights, constitutional law, evidence and procedure sections of the advance sheets. Attorneys should record citations to significant recent decisions in some systematic way.
4. Become well acquainted with the materials available in the office library.
5. Read the Litigation Docket and updates in order to be aware of what other offices are doing.
6. If possible, attend ICLEF programs sponsored by the State Bar Association or other training events. Refer to ILS personnel policies for further information on the use of program funds to attend these events.
7. Keep abreast of the political and social climate in the community by daily reading of newspapers and other source materials, such as agendas of governmental bodies and community organizations.
8. Actively participate in the Legal Services Round Table.
9. Use the Indiana Justice Center web site [<>, including posting pleadings on the web site, and available listservs.](#)

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## **520.70 Significant Litigation**

ILS is famous and justifiably proud of its impressive record in the area of significant litigation. The prohibition on ILS handling class action lawsuits does not extinguish our ability to participate in litigation which has a significant impact on our clients. Legal issues which affect large numbers of low-income persons may be brought to our attention in a number of ways, including community organizations, clients, discussions with other casehandlers and staff members. The ability to determine whether an issue is appropriate for litigation or other activity requires not only technical competence but a knowledge of organizational goals and the political climate in the community. The ability to identify potential major issues, both in a casehandler's area of specialization and in other areas, depends upon good communication among the other casehandlers and staff throughout the program.

Major litigation should not be commenced unless there is a high probability of obtaining the relief sought or some other substantial benefit to the client community. Casehandlers are also instructed to initiate procedures in effect for determining whether to undertake major cases prior to making any commitment to clients that we will represent them in any major case according to ILS policies, including consultation with the Executive Director and the supervisor, managing attorney or unit head. ILS casehandlers are strongly encouraged to participate in significant litigation, whenever appropriate.

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## **530.00 Community Responsibility**

### **530.10 Work with Community Organizations**

Given the inadequate number of attorneys and paralegals serving the poor and the need for the poverty community and their advocates to be able to deal directly with the legal system, there is a significant role to be played by community organizations and their members so they may become effective advocacy organizations. Such persons and organizations accept referrals from ILS casehandlers to provide assistance to individual clients in a variety of service areas. Organized, client eligible groups also raise issues which ILS casehandlers should assist in developing and resolving.

ILS casehandlers are encouraged to work with client eligible community organizations and groups which have a common goal in serving the poor community. Consequently, casehandlers must make a conscious effort to develop good relationships with community organizations and groups serving our clientele. This effort should not be limited to groups involved in one area of the law, but should extend to other groups in the community served by ILS. Community events should be announced in the office and casehandlers are encouraged to attend such functions. Casehandlers also should establish a good relationship with community members, whether or not they are associated with organized groups.

ILS casehandlers are expected to be familiar with ILS and LSC policies regarding group representation currently in effect.

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### **530.20 Maintaining Community Relations**

ILS casehandlers are expected to conduct themselves in a manner that reflects positively upon ILS when representing ILS in any capacity. ILS casehandlers are encouraged to maintain a good relationship with the private bar and others in the community with whom we have contact. In addition, ILS casehandlers are encouraged to volunteer their time and skills in assisting in community endeavors.

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### **530.30 Bar Relations**

Attorneys are encouraged to be members of the American Bar Association, the Indiana State Bar Association and local bar associations. Attorneys are encouraged to attend meetings, luncheons and other local bar events, and to get involved with the committee work of the various bar associations.

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### **540.00 Skills**

#### **540.10 Client Contact Skills**

The skill of interviewing clients is not necessarily one which all casehandlers automatically possess upon employment with the program. To conduct a good interview, the casehandler must relate well with the client. A good interview has at least three primary objectives and ILS casehandlers are expected to strive for them. These objectives are:

- a. to obtain a solid understanding of all the relevant facts;
- b. to obtain a solid understanding of the client's goals or perceived goals; and
- c. to establish a good relationship with the client.

ILS casehandlers are encouraged to keep these objectives in mind while interviewing client.

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#### **540.20 Sensitivity to Client Needs**

Many of our clients have had contact with various agencies over a long period of time. Oftentimes they have been mistreated by agency personnel who either didn't care or did not take the time to explain to the client what was happening to them. It is important that ILS casehandlers establish a good rapport with their clients, and in order to do this, ILS casehandlers must be sensitive to client needs. An ILS office should be a place where all clients are treated with dignity, respect and courtesy.

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### **540.30 Advising Clients**

Clients should be fully and accurately advised of their legal rights. Casehandlers should recognize the limitations on their time and take care not to promise to do things for clients that the casehandler may not be able to do or that the clients could do for themselves. If the client has a weak case, s/he should be so advised with a careful explanation why the casehandler feels the case is weak. The client should also be informed of the estimated time in which any action should be taken. Care should be taken not to build up unreasonable expectations on what the ILS casehandler can do for the client because such a course of action can create justifiable anger and frustration on the client's part. On the other hand, the ILS casehandler has a duty to represent zealously a client and the client should be informed that if his/her case is accepted, everything reasonably possible will be done to obtain the desired result based upon the facts and circumstances of the client's individual case.

It is also a good idea when dealing with a new client to explain the casehandler-client relationship and the responsibility of the client to keep ILS informed of his/her address and telephone number at all times. It is also advisable to explain to the client the casehandler duties regarding preservation of client confidences and secrets. Since many clients will not have had contact with a casehandler before, they probably have little or no understanding of the casehandler's duty to maintain confidences.

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### **540.40 Counseling Clients**

Many ILS clients have legal problems which are intertwined with other personal and emotional problems. ILS casehandlers must be sensitive to these non-legal problems and learn to deal with them as well as legal problems. In some instances, a referral to another agency for non-legal counseling or assistance may be in order. ILS casehandlers are encouraged to familiarize themselves with available community social

service agencies and resources. ILS casehandlers should, while being sensitive to non-legal problems, remember that our function is to provide legal services.

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## **550.00 Practice Skills**

### **550.10 Writing Skills**

In order to function effectively as an ILS casehandler, it is necessary to develop good writing skills. All ILS casehandlers are encouraged to develop computer skills.

All documents and letters must be carefully proofread and appropriate corrections must be made before the documents leave the office. Typographical errors and messy copies reflect poorly on the casehandler and on the program.

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### **550.20 Federal and Appellate Practice**

Attorneys are encouraged to participate in federal litigation and in appellate practice. Attorneys must obtain authorization before instituting federal cases or appeals to the Indiana Court of Appeals or United States Court of Appeals. See Section 700.00.

Casehandlers are expected to be familiar with the appeal procedures for areas in which they practice. All casehandlers should be familiar with the rules of the Indiana Supreme Court and the Court of Appeals, as well as the federal rules. It is extremely important that the attorneys understand the time limitations for filing appeals since these limitations are usually jurisdictional and there is no way to correct an error in failing to timely perfect an appeal.

Attorneys should be familiar with the procedures for oral argument in the Indiana Supreme Court and the Court of Appeals, as well as the federal courts.

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### **550.30 Trial Skills and Practice**

In order to competently represent clients, all ILS attorneys are expected to develop the necessary skills to conduct a trial and an administrative hearing. Trial skills are typically developed and refined over years of commitment to continuing self-assessment and self-improvement. A capable trial advocate will have a "toolbox" of skills, including the ability to accomplish the following: opening statements; direct and cross examination of witnesses, both an ordinary witness and an expert witness; making objections and responding to objections; introduction of exhibits into evidence; oral motions; and, closing arguments.

Oral advocacy, and the specific use of trial skills, takes place in a variety of settings, including motion practice; pre-trial conferences; settlement negotiations; depositions; alternative dispute resolution forums, including mediation sessions; as well as the traditional evidentiary hearing, both contested and un-contested.

Attorneys are encouraged to gain experience and self-confidence in the art of trial advocacy. ILS attorneys can develop skills by representing their own clients, but also by co-counseling with other more experienced casehandlers. Valuable knowledge about trial skills can also be obtained by reading articles and books about the art of trial advocacy. Respected periodicals include the quarterly *ABA Litigation Journal*; excellent books include James McElhaney's *Trial Notebook* and Steven Lubet's *Modern Trial Advocacy*. ILS attorneys are also encouraged to take advantage of N.I.T.A.-type training events, particularly where scholarships are available.

Finally, conducting a trial effectively and successfully requires the attorney to have a solid working knowledge of the rules of civil procedure and the rules of evidence, both for state and federal court practice.

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## **600.00 PROGRAM PRIORITIES**

The current priorities statement for ILS is attached as Attachment 600.00A. ILS staff cannot accept cases that are outside ILS's priorities. All ILS staff members must comply with the priorities statement and the emergency procedures. All ILS attorneys and paralegals must sign the Priorities Agreement.

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## **700.00 NON-ROUTINE CASES**

### **710.00 Definition**

For purposes of this section, non-routine cases are defined as any federal court action (excluding bankruptcies and Social Security Disability appeals), any appeal to a court of appeals or higher court, whether in state or federal court, and any state court action which challenges the legality of a governmental practice or which is likely to effect individuals other than those who are parties to the litigation.

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## **720.00 Co-Counseling**

Every non-routine case shall have co-counsel assigned. Each case having co-counsel must have one attorney designated as lead counsel who shall ultimately be responsible for the conduct of the litigation. Additionally, other cases presenting complex, difficult or novel questions of fact or law shall have co-counsel assigned. The primary casehandler is responsible for selecting co-counsel, subject to approval by the managing attorney or designee. Where possible, co-counsel selection should result in the pairing up of casehandlers of different levels of experience. Finally, co-counseling is encouraged even in relatively routine cases as a teaching and orientation method for new staff, including paralegals.

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## **730.00 Approval of Non-Routine Cases**

Prior to filing any non-routine case approval of such filing must be obtained from the Executive Director or designee. This approval shall be documented in the file. (Form 730.00A) Approval should be sought promptly with contemporaneous notice to the casehandler's supervisor. Initial conversations about the non-routine case should occur within days after the case comes to the attention of the casehandler, and in the case of an appeal, within one week after notice of the unfavorable decision is received. Approval to represent a client in a non-routine case is required whether ILS's client is the plaintiff or defendant, appellant or appellee.

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## **740.00 Review of Final Judgments**

Whenever any ILS staff attorney receives a final, appealable judgment or order in a non-routine case, whether in state or federal court, or a decision from any appellate court, the lead counsel for the case shall immediately, and well in advance of the next jurisdictional deadline, provide a copy of the judgment, order or decision to all co-counsel and to the Executive Director or designee. All decisions not to appeal any of the above type of cases shall be as a result of an affirmative and conscious action taken by

the involved attorneys. This applies to all decisions regardless of how favorable or unfavorable they appear to be.

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## **750.00 Litigation Docket**

Twice a year, the Executive Director or designee shall publish a Litigation Docket, reporting all non-routine ILS open cases and any other cases presenting issues that have program-wide significance. A copy of the Litigation Docket will be provided to each office. Upon approval of a non-routine case, lead counsel shall provide a completed Litigation Docket Report to the Executive Director or designee. (Form 750.00A) Additionally, lead counsel shall promptly submit updated Litigation Docket Reports upon request from the Executive Director.

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## **760.00 Brief Bank**

The Indiana Justice Center maintains a web site ([www.indianajustice.org](http://www.indianajustice.org)) which allows casehandlers to post materials that other casehandlers can share. All casehandlers who prepare significant pleadings, briefs or memoranda in cases should post these to the web site.

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## **800.00 LEGISLATIVE AND ADMINISTRATIVE INVOLVEMENT**

Legal Services Corporation Regulations substantially limit the involvement that ILS employees can have with legislative and administrative bodies. All ILS must be familiar with these regulations and must strictly comply with them. Any legislative or administrative advocacy must be in compliance with the LSC Regulations. Any staff member who engages in legislative or administrative advocacy as allowed by the Regulations must notify the Executive Director of the time spent on this activity.

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## **900.00 LEGAL SERVICES ROUND TABLE**

ILS has a Legal Services Round Table. The purpose of the Round Table is to provide an opportunity for ILS staff and others to meet regularly to discuss issues that impact upon clients; to organize training programs; to share ideas and strategize about issues affecting clients; to develop community legal education materials and programs; to enable staff to develop expertise; and to facilitate discussion between staff members of different offices and between ILS staff and staff of other organizations. All casehandlers shall belong to at least two (2) Round Table Sections and all non-casehandling staff are encouraged to belong to at least one (1) Round Table Section. Staff are also encouraged to share the responsibility of the Round Table and serve periodically as chairs of the different Round Table Sections. The Round Table is essential to our ability to maintain a cohesive organization throughout the state, to ensure that all staff are aware of cutting edge issues and to develop new casehandlers' skills. Therefore, attendance at section meetings is mandatory for section members.

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## **1000.00 PROCEDURE FOR HANDLING POSSIBLE CLAIMS**

Despite the exercise of due diligence and best practices, ILS staff members may, on occasion, make mistakes in handling clients' cases. ILS maintains liability insurance. Because the insurance policy is issued on a "Claims Made" basis, it is extremely important that ILS immediately report to the insurance carrier representative any possible legal action against ILS or its staff. Thus, ILS must report the receipt of any notification that a legal action will be taken against it or a staff member, including but not limited to notification by a telephone call, personal conversation, receipt of a Summons and Complaint, or receipt of an inquiry from the Supreme Court Disciplinary Commission. In addition, ILS must report to the insurance carrier representative any knowledge of a potential situation that may give rise to a claim.

The Executive Director or his designee is responsible for advising the insurance carrier representative of potential claims. Any ILS staff member receiving notice or having knowledge of a potential claim against ILS or any member of the staff must immediately communicate that information to the Executive Director or his designee.

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