

LEGAL DEFENSE FUND

LDF Membership

Membership in the Legal Defense Fund (LDF) requires submission and approval of a fully completed application for membership. LDF Membership is available exclusively to those people who meet and maintain the following eligibility criteria:

- (i) the person must be a registered municipal clerk who is employed as a municipal clerk by a New Jersey municipality or a New Jersey County Board of Commissioners; and
- (ii) (ii) the person must be a member in good standing of the Municipal Clerks' Association of New Jersey, Inc. (MCANJ).

Each LDF member is required to maintain continuous, uninterrupted compliance with the foregoing eligibility requirements as a condition of their LDF membership. If an LDF member fails to satisfy either of the foregoing eligibility requirements at any point after their LDF membership is approved, their LDF membership is automatically terminated at the moment they no longer meet LDF membership eligibility requirements, even if that non-compliance is not discovered immediately. Should an LDF membership be terminated, a new application for LDF membership must be submitted by that person in order to become an LDF member again. Notwithstanding the foregoing, the LDF Board, with the approval of the MCANJ Board, may reinstate an LDF membership without imposing the automatic termination and new application requirement noted above. This administrative relief is reserved to limited situations where the LDF Membership ineligibility at issue did not result from negligent or purposeful actions or neglect by the LDF Member (including, but not limited to, a short, unintentional lapse in payment of annual MCANJ membership dues, or where the LDF member is suspended or terminated from their employment as a clerk and challenges that adverse employment action in a court or another adjudicatory forum/tribunal with jurisdiction over the matter).

LDF Legal Defense Fund

A central tenet of the respective missions of MCANJ and LDF is advocacy for, and support and protection for members. The LDF Legal Defense Fund provides LDF Members with up to a \$7,500 (maximum) reimbursement as financial assistance to help cover some attorneys' fees and court filing fees related to specific disputes arising from adverse employment actions. More information can be found below and in the LDF By-laws and the LDF Legal Defense Fund rules and procedures.

LDF members who would like to request reimbursement of attorneys' fees and court filing fees (up to the \$7,500 maximum) arising from a legal action eligible for LDF Legal Defense Fund coverage must first file a complete LDF Legal Defense Fund request form with the Chair of the LDF along with any necessary support and documentation. Once the request is deemed complete, the LDF Board will review the request and make a determination on eligibility. Assuming the request is found to be eligible, you will hear a determination as to the requested reimbursement.

The Legal Defense Fund By-Laws detail the processes utilized for financial reimbursement made to a current LDF member.

Not a Member of the Legal Defense Fund:

To be eligible for reimbursement of an eligible claim under the LDF Legal Defense Fund, you must be a member of the MCANJ and the LDF. MCANJ members who are involved in a legal problem are encouraged to notify the LDF Chair, particularly if it is a matter or condition that affects other clerks.

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STATEMENT OF POSITION

The determination of the LDF in granting or denying a member's application for legal assistance shall in no way be construed as agreement or disagreement with the underlying issues which are the basis of the controversy between the member and any adverse party. Payment by the LDF shall in no way be construed as an endorsement of the member's position nor does it represent MCANJ or LDF involvement or participation in the legal dispute or the member's counsel's representation. Conversely, the denial of a member's request for financial assistance is not a determination on the merits of the member's claim or legal position and cannot be construed MCANJ or LDF having taken a position or having a disagreement with the member's position or claims.

1. Organization

There shall be a standing committee of the Municipal Clerks' Association of New Jersey, Inc. (hereinafter referred to as the MCANJ) known as the Legal Defense Committee (hereinafter referred to as the Committee) to oversee the Legal Defense Fund (hereinafter LDF).

2. Method and Terms of Appointment

- A. The Committee shall consist of seven (7) regular voting members.

- B. Committee members must include at least one representative from each of the North, Central and South zones of New Jersey. Additionally, there shall be one (1) alternate voting member, who will be eligible to vote only if a regular member is unavailable. All LDF Committee Members shall be tenured Municipal Clerks and members in good standing of the LDF. A retired Municipal Clerk who had tenure upon retirement is permitted to serve on a MCANJ Committee upon retirement and is a member in good standing with MCANJ.
- C. A LDF Chairperson will initially be appointed by the MCANJ President and the Executive Board for the new implementation of the Legal Defense Fund Committee.
- D. The LDF Chairperson will be responsible for membership renewals, the membership registration form, Legal Defense Fund seminars, financial records of said fund, LDF budget, and notifying the Quill Editor/Webmaster of any email blasts for the LDF.
- E. A Vice-Chair will initially be appointed by the MCANJ President and the Executive Board who will shadow the LDF Chairperson in the event the LDF Chair wishes to step down in the future, the Vice-Chair will assume the role of LDF Chair for a smooth transition and another LDF Vice-Chair will be appointed at that time by the MCANJ President and Executive Board.
- F. The LDF Chair will be provided with a stipend of \$1,500.00 a year for services provided in this capacity.
- G. All payments for LDF membership renewals and dues will be paid by credit card through the MCANJ website portal to the LDF Chair.
- H. The Attorney for the MCANJ shall serve as legal advisor to the Committee.
- I. Vacancies: In the event a vacancy shall occur for any reason an appointment will be made by the MCANJ President and Executive Board.

3. Responsibilities

- A. Recommend improvement to the operation of the LDF.
- B. Annually, by May 1, the LDF Chairperson and MCANJ Treasurer shall provide a budget to the MCANJ Executive Board which has been previously approved by the Committee. Reasonable administrative costs of the LDF shall be paid through LDF funds.
- C. The Chairperson will distribute all applications received for financial assistance to all members of the Committee within fifteen business days for informational purposes.
- D. The Chairperson will submit a memorandum to the MCANJ Executive Board detailing actions related to any application, review, and resolution.
- E. All findings and documentation pertaining to a member's application shall become the property of the MCANJ.
- F. Maintain the LDF as a separate fund of the MCANJ and not be co-mingled with MCANJ funds. The MCANJ Chairperson, MCANJ Treasurer or MCANJ President may sign checks on behalf of the LDF. The Vice-Chair of the LDF shall be the alternate signer of LDF funds to be expended.

- G. The Chairperson will provide any/all financial documentation needed to the MCANJ accountant for auditing purposes.
- H. Retain for a period of seven years after the final determination of the matter all documents relating to assistance.
- I. Financial records of LDF shall be maintained pursuant to IRS requirements.

4. Eligibility for Financial Assistance

- A. Eligible member shall be a Municipal Clerk, Acting Municipal Clerk, Deputy Municipal Clerk, County Commissioner Clerk or Deputy County Commissioner Clerk who is a current member in good standing of MCANJ.
- B. A Member eligible for payment from the LDF shall have paid the initial membership fee of \$75 and shall have been a member in good standing for a minimum of 90 days prior to the date of application for assistance.
- C. To maintain membership in good standing a renewal fee of \$25 shall be due and paid by the member of the LDF prior to November 1, each year following the initial application for membership. Any member not renewing by November 10 (grace period) will be required to join as a new member and will have to abide by the 90-day waiting period in order to file an application for financial assistance. The term of membership in the LDF is from July 1 through June 30.

5. Request for Financial Assistance

- A. Financial Assistance is not available for any matter instituted by any member of the LDF against another member of the LDF or member of the MCANJ if other member of MCANJ is acting in his/her capacity as Municipal Clerk, Acting Municipal Clerk, Deputy Municipal Clerk, County Commissioner Clerk or Deputy County Commissioner Clerk.
- B. A request for financial assistance shall be made, in writing on the LDF application, to the Chairperson of the Committee within twenty (20) days of the date of the matter which is the subject of the application or within twenty (20) days after consulting an attorney as set forth in
- C. The Committee may waive the requirements of the twenty (20) day deadline for any application upon a showing of good cause.
- D. The Member shall consult with an attorney to determine whether the member has a legitimate legal issue/complaint prior to making the request.
- E. In the application, the member shall document the entire complaint and matter and nature of the relief which is sought and shall include attorney's acknowledgement that he/she will accept the case.

6. Legal Expenses

- A. The LDF, through the LDF Committee, determines the eligibility of each application as well as approves or rejects each application in its sole and unfettered discretion. LDF Legal Defense Fund eligibility determinations and awards may be reviewed and/or modified by the MCANJ Board in its sole and unfettered discretion.

B. If an application is determined to be eligible and approved by LDF, the LDF will reimburse a member for attorneys' fees and court filing fees paid by the member to the member's attorney related to the approved application. The maximum total reimbursement any member is eligible to receive in an amount not to exceed \$7,500 subject to the \$500 deductible as set forth in 7 as follows:

- 1.) The member shall enter into a signed retainer or separate agreement with the member's attorney specifically setting forth the name of the case, the amount of the retainer fee, if any, the hourly rate and such other terms and conditions as are agreed upon between the member and the attorney. Legal services provided pursuant to a Contingency Fee Agreements (where attorneys' fees are typically calculated as a percentage of the final judgment or settlement amount) are not eligible for LDF Legal Defense Fund consideration or approval.
- 2.) The retainer (or a separate agreement) between the claimant and their legal counsel shall include the following terms and conditions: "The parties agree that in the event the member is successful in the subject matter of the retainer so that the member is paid legal fees from the member's adverse party by way of settlement or judgment, the member and his/her attorney shall reimburse the LDF for any payment previously made by LDF."
- 3.) If a settlement or judgment is entered into, the claimant is required to notify the Chairperson of the LDF within five (5) calendar days. If the claimant has received reimbursement of legal fees from the settlement or judgment, the amount will be reimbursed to the LDF Treasury within 10 days of receiving compensation.
- 4.) In any case where a court, administrative agency or settlement agreement does not specifically designate an amount as reimbursement or award of counsel fees, but the claimant actually receives compensation or other damages in excess of the claimant's lost wages and other non-legal expenses, claimant and claimant's attorney agree to reimburse the LDF an amount equal to the legal fees advanced by the LDF.

C. The LDF shall make payments as required up to \$7,500 upon the presentation of a statement of fees and costs actually spent/paid by the claimant relating to the matter in which the member is to receive payment as set forth in E. The statement shall be reasonably detailed to set forth the legal services rendered and to indicate that they relate to the underlying action which is the subject matter of the request for payment from the LDF.

D. The member and his/her attorney shall submit to the LDF, quarterly statements of fees and costs relating to the matter in which the member is to receive payment.

E. All checks made hereunder shall be signed by the MCANJ Treasurer or LDF Chairperson.

F. The amounts LDF shall pay, as set forth herein, shall be paid if the following conditions are met:

- 1) The member is a member in good standing as set forth in Article 4.
- 2.) The matter relates to the member's status as a Municipal Clerk, Acting Municipal Clerk, Deputy Municipal Clerk, County Board of Commissioners Clerk, or Deputy County Board of Commissioners Clerk.
- 5.) The claimant must ensure that their retainer agreement between the claimant and the attorney mandates the reimbursement requirements as set forth herein.

7. Deductible Amount

- A. There shall be a deductible amount of \$500 per application.
- B. The member shall be required to pay the deductible amount before any payment for legal expenses are paid by the LDF.

8. Member's Counsel

- A. It is recommended that a member use an attorney of the member's choice who has experience with public entities, local government employees and the position of the Clerk. If any time during the suit, the claimant changes attorney, the Chairperson of the LDF will be immediately notified.

9. Confidentiality

All information, written or oral, regarding applications for assistance is privileged and confidential information, intended only for the use of the Committee, the MCANJ Executive Board, MCANJ Attorney, the member and member's attorney. Any discussion or dissemination of information is strictly prohibited.

10. Revenue and Finance

- A. All funds held in the LDF shall be derived from fees paid by members' personal checks, gifts, fundraisers, or other legally permitted sources and shall be considered non-refundable upon payment and shall not be co-mingled with MCANJ funds.
- B. No membership fee may be paid from any Municipal or County funds.

11. Amendments

- A. The Committee may make recommendations to the Executive Board of the MCANJ for revisions to the by-laws of the LDF and will state the reasons for such revisions.
- B. The Executive Board of the MCANJ may, on its own initiative, adopt revisions to the by-laws by a majority vote and only after providing a draft copy of the proposed revisions to the members of the LDF Committee for their review and comment at least 30 days prior to the date set for adoption.

12. Effective Date

The effective date of these by-laws are: March 21, 2024