

**AMENDED PLAN FOR THE ADMINISTRATION
OF THE FEDERAL PRACTICE FUND AND
THE FEDERAL PRACTICE COMMITTEE**

I. Establishment of Federal Practice Fund

- A. Authority. The United States District Court for the District of Nebraska (“court”) establishes the Federal Practice Fund (“Fund”) pursuant to the policies of the Judicial Conference of the United States (“Judicial Conference”), as set forth in the *Guide to Judiciary Policy*, Volume 4, Chapter 6 (“*Guide*”), and other related provisions; 28 U.S.C. § 1914; Nebraska General Rule 1.7(h); and the court’s inherent authority. Volume 4, Chapter 6, § 670 of the *Guide* is incorporated into this plan by reference.
- B. Purpose. The Fund exists for the management and expenditure of attorney admission funds maintained locally by this court.
1. Attorney Admission Funds. Attorney admission funds are non-appropriated funds segregated from all other monies in the court’s custody.
 2. Permissible Sources. Sources of monies placed in the Fund include attorney admission fees that are in addition to the basic attorney admission fee prescribed by the Judicial Conference under 28 U.S.C. § 1914; biennial assessments collected from members of the bar; earnings from the investment of monies in the Fund; and any monies remaining in the Fund at the end of each fiscal year.
 3. Excluded Sources. Monies from any other sources, including those specified in the *Guide*, § 670, will not be placed in the Fund.

II. Policies for Fund Expenditures

- A. Permissible Uses. The Fund may only be used for purposes that inure to the benefit of the members of the bench and the bar in the administration of justice. Proper uses of the Fund include those listed in the *Guide*, § 670.20 as well as those found in (1) and (2) below.
1. Locally Approved Uses. The court approves the following expenditures from the Fund:
 - a. Litigation costs for indigent pro se civil litigants (including mediation expenses) and attorney fees for court-appointed counsel when appropriated funds are not available for such purposes. Except as otherwise determined by the chief

judge in special cases, counsel appointed by any judge of this court to represent an indigent pro se civil litigant is entitled to a fee of up to \$2,000 to be paid from the Fund at the discretion of the appointing district or magistrate judge. The clerk of the court will pay counsel one half of this fee when counsel files an appearance in CM/ECF, and will pay the remainder of the fee after the court enters judgment or other closing documents in the case.

- b. Mediation expenses of litigants who, although not proceeding *in forma pauperis* or with appointed counsel, are without adequate funds to pay mediation expenses themselves, as found by the assigned district, bankruptcy, or magistrate judge.
- c. Payment of attorneys appointed to serve as guardians *ad litem* in civil cases in this court. The reimbursable expenses of the guardian *ad litem* may include attorney fees when the guardian *ad litem* is authorized to hire counsel.¹
- d. Educational programs for members of the bar of this court, including continuing legal education programs that will fulfill the Nebraska Supreme Court's continuing legal education requirements.
- e. Expenses of members of the bar of this court, especially members of the Federal Practice Committee, as they relate to advising the judges of this court on matters of practice. Expenses may include travel expenses related to attendance at the Eighth Circuit Judicial Conference and other conferences or seminars that assist those members in providing counsel to the judges of this court.
- f. Monetary support for the work of the Federal Practice Committee, the Historical Society of the United States Courts in the Eighth Circuit and the District of Nebraska Branch, including, but not limited to, paying for the travel or other expenses of attorney members of such societies, branches, or committees.

¹18 U.S.C. § 3509(h)(1) provides, in part, "The court may appoint, and provide reasonable compensation and payment of expenses for, a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child." Payment of such compensation and expenses in criminal cases must be made with decentralized court funds, and not with monies from the Fund. However, payment of guardian *ad litem* compensation and expenses in civil cases may be paid with monies from the Fund.

- g. Expenses of the Fund, including fees for services rendered by outside auditors or accountants in auditing the Fund.
 2. Uses Approved by General Counsel. The court will maintain a compilation of requests for Fund expenditures for which the court has sought advice from the Office of General Counsel of the United States Courts, along with an explanation of whether General Counsel allowed each expenditure.
- B. Advice on Expenditures. The other judges of the court, court staff, the Federal Practice Committee (“committee”; see § VIII, below), and bar members may suggest to the chief judge and the active district judges how the Fund should be used.
1. Budget Subcommittee. As part of this process, the chief judge or his or her designee² and the chair of the committee will annually appoint certain committee members to a budget subcommittee. The budget subcommittee and the court’s administrative supervisor will prepare an annual budget prior to the committee’s fall meeting, identifying anticipated expenses and revenues for the coming year. The chief judge will review the budget at the fall meeting, and may either approve it or request revisions. The budget will not be in effect until the chief judge and the chair of the committee members approve it.
 2. Subcommittee Review of Expenditure Requests. In addition, the chief judge may, but is not required to, notify the committee chair when the court receives unbudgeted requests for Fund expenditures. The chair will forward these requests to the budget subcommittee for review. The chair will notify the chief judge if the budget subcommittee approves the request and, if approved, in what amount.
- C. Payment of Litigation Costs and Attorney Fees. Litigation costs (including mediation expenses) and attorney fees may be incurred and paid in the sole discretion of the chief judge.
- D. Other Expenses. Other expenses not exceeding \$5,000 in the aggregate may be incurred or paid at the direction of the chief judge alone, or if the chief judge is absent, the active district judge next senior in service. Additional expenses may be incurred or paid at the direction of the chief judge upon a vote of a majority of the active district judges.

²The chief judge may designate an active Article III judge to oversee the committee.

1. Disbursement Directives. The chief judge must direct the clerk to make disbursements from the Fund in writing or by e-mail, specifying the amount to be disbursed. If the directive is by e-mail, the clerk will retain a hard copy of the e-mail and make it available for inspection by auditors.
2. Authority to Exceed Authorized Amount. The clerk has authority to exceed the authorized amount by no more than 10%.

III. Limitations on Use of the Fund

- A. Limitations. Limitations on use of the Fund include those found in the *Guide*, § 670.30, as well as the following:
 1. No Unreasonable Accumulation of Funds. The court will avoid unreasonable accumulation of funds. The reasonableness of any accumulation of funds will be measured against the potential for large unanticipated litigation expenses of appointed counsel.
 2. Equipment Purchases. If the Fund is used to purchase equipment, the equipment becomes the property of the United States District Court for the District of Nebraska, and will be available for use by the members of the court's bar subject to any guidelines established by the active district court judges. The Fund may not be used to augment the purchase of computers and other information technology equipment that is otherwise subject to funding by the Judiciary Information Technology Fund.

IV. Duties of the Custodian

- A. Clerk as Custodian. The clerk of the court is appointed custodian of the Fund. The custodian's duties are detailed in the *Guide*, § 670.70.
- B. Successor Custodian. Whenever a clerk of this court leaves office, his or her successor in office becomes the successor custodian of the Fund. The outgoing custodian will participate in an exit audit as provided in the *Guide*, § 670.70.20. The successor custodian will execute a receipt for all monies in the Fund in accordance with the *Guide*, § 670.70.20(b).

V. Maintenance of the Funds

- A. Biennial Attorney Assessment. The clerk will biennially assess each of the regular, non-exempt members of the bar of this court such sum as the majority of the court's active district judges decides. This sum is in addition to the basic admission fee established by the Judicial Conference. All assessments will become part of the Fund. See NEGenR 1.7(h).

- B. Accounts. The clerk will segregate monies in the Fund from all other monies in the court's custody by placing them in interest-bearing accounts in federally insured banks or savings institutions, government securities, or money market funds invested in government obligations. The clerk will leave sufficient liquid funds available to meet known or anticipated obligations, while maximizing, to the extent practicable, the amounts earning income.
- C. Reports. At least semi-annually, but more frequently if the chief judge directs, the clerk will provide the judges of this court a report showing the following: beginning balance of assets; revenue during the reporting period, including collections and investments; disbursements during the reporting period; ending balance of assets (bank balances and undeposited collections); obligations, accounts payable, or known future expenditures; and available balance.
- D. Audits. Audits of the Fund are conducted according to the provisions in the *Guide*, § 670.80.20.
- E. Disbursements. All disbursements from the Fund will be made by check or debit card. All checks must be signed by the clerk or the chief deputy clerk. Before signing checks or authorizing use of a debit card, the clerk or chief deputy clerk will ensure that all disbursements are made in accordance with this Plan.

VI. Procedures for Seeking Reimbursement from the Fund

- A. Prior Authorization to Incur Expenses. Whenever practical, prior authorization should be sought before expenses are incurred. Except for applications submitted by a judge, applications for authorization to incur expenses to be paid by the Fund must be submitted in writing, as follows:
 - 1. For litigation expenses in a pending case, to the district, magistrate, or bankruptcy judge assigned to the case, in accordance with the guidelines;
 - 2. For mediation expenses in a pending case, to the district, magistrate, or bankruptcy judge who is considering referring the case to mediation, pursuant to the guidelines and the court's Mediation Plan;
 - 3. For all other expenditures, to the chief judge.
- B. Applications by a Judge. Applications submitted by a judge will be made as directed by the chief judge.

- C. Applications for Authorizations. Except for applications submitted by a judge, applications for authorization to incur expenses must set forth the purposes for incurring the expenses, the estimated cost, the applicant's efforts to keep the cost as low as possible, and the applicant's efforts to obtain funds from other sources to pay the expenses. The guidelines for reimbursable attorney expenses are attached to this plan and marked as Attachment A. Applications for litigation or mediation expenses in pending cases may be submitted *ex parte* and *in camera*, if, as set forth in the application, disclosure of the application or its purposes would compromise the litigation or negotiation strategy of the party in whose behalf it is made.
- D. Repayment From Judgment or Settlement. An application for authorization to incur litigation or mediation expenses to be paid from the Fund constitutes an agreement that should the applicant obtain a monetary recovery in the case by judgment or settlement, the applicant will repay the Fund from such recovery before the remainder is distributed, unless otherwise ordered. The assigned judge may, on motion, waive up to \$1,000 otherwise required to be repaid, if such waiver is required to settle the case; the chief judge must approve any larger waiver.
- E. Written Approval of Applications. A judge must approve an application for authorization to incur expenses to be paid from the Fund in writing or by e-mail, stating the maximum amount approved.
1. Authorization to Incur Litigation and Mediation Expenses. For litigation and mediation expenses, the judge must electronically file the original authorization order in the case (under seal, if appropriate).
 2. Other Authorizations to Incur Expenses. All other authorizations must be in writing or by e-mail and be maintained by the clerk of the court. If the authorization is by e-mail, the clerk will retain a hard copy of the e-mail.
 3. Authorizations Open to Auditors. All authorizations, including those granted *in camera* and under seal, are available for inspection by auditors.

VII. Dissolution of the Fund

- A. By Vote. A majority of the active district court judges may vote to dissolve the Fund. Any balances in the Fund shall be disposed of in accordance with the majority vote of the active district judges in ways that fulfill or further the purposes of the Fund.

- B. Final Audit. If the active district judges vote to dissolve the Fund, a final audit will be conducted and a written accounting rendered to the court, according to the *Guide*, § 670.80.30.
- C. Notice to Claimants. At the time of dissolution, the custodian will give notice to all persons known or believed to have incurred expenses for which the Fund may be authorized or obligated to pay. Such persons will be given at least 30 days to submit their claims for payment.

VIII. Federal Practice Committee

- A. Establishment. Pursuant to the *Guide*, § 670.60 the court appoints the committee to advise the court and the chief judge, when requested, on matters relating to the administration of the Fund and to the practice of law in this court.
- B. Composition of the Committee. The committee consists of not more than 22 members. All members of the committee, both “ex officio” and “at large,” have one vote, and the decision of the majority governs.
 - 1. Ex Officio Members. The clerk of the district court, the clerk of the bankruptcy court, the chief of the probation and pretrial services office, the United States Attorney, the Federal Public Defender, a lawyer designated by the Nebraska Attorney General, a faculty member designated by the dean of the Creighton University School of Law, a faculty member designated by the dean of the University of Nebraska College of Law, and the chairperson of the committee from the preceding year are “ex officio” members of the committee.
 - 2. At Large Members. The chief judge or his or her designee appoints not more than 12 lawyers who are members of this court’s bar to serve as “at large” members of the committee, each serving a term to be designated by the chief judge. The chief judge or designee is encouraged, but not required, to stagger the terms of these 12 members. Members’ terms are not limited, but the chief judge or designee is encouraged to appoint new members on a regular basis.
- C. Chairperson. The chief judge or his or her designee selects one member of the committee as the chairperson. Subject to the oversight of the chief judge or designee, the chairperson presides over the meetings of the committee and acts for the committee when it is not practical to convene a meeting of the committee.

- D. Meetings. The chairperson calls meetings of the committee as frequently as necessary to consider matters that the chief judge or his or her designee puts before it. The committee is encouraged but not required to hold at least two meetings annually, one at the annual meeting of the Nebraska State Bar Association and the other during the Eighth Circuit Judicial Conference.
1. Telephonic Meetings Permitted. The chairperson may conduct meetings by telephone.
 2. Closed Meetings. Unless the chief judge or his or her designee authorizes otherwise, the meetings of the committee are not open to the public. However, the court's judges and employees may attend meetings and participate therein.
- E. Subcommittees. Subject to the oversight of the chief judge or his or her designee, the chairperson may appoint such subcommittees, consisting of members of the committee, as he or she deems appropriate. Such subcommittees have the powers delegated by the chairperson.
- F. Dissolution. All members of the committee serve at the will of the chief judge or his or her designee and the court. The court or chief judge may dissolve the committee at any time. The chief judge or his or her designee may at any time remove a chairperson and appoint a new chairperson. The chief judge or his or her designee may at any time remove a member of the committee and appoint a new member.
- G. No Compensation. No member of the committee receives compensation for service on the committee except for reimbursement of expenses incurred while doing committee business. The chief judge must approve reimbursement of any such expenses. Reimbursements are paid only from the Fund.

IT IS THEREFORE ORDERED that this Amended Plan for the Administration of the Federal Practice Fund and the Federal Practice Committee is adopted by the court on this June 17, 2016.

IT IS FURTHER ORDERED that the chief judge is authorized to issue standing or general orders to implement this plan.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge

Attachment A

GUIDELINES FOR COUNSEL APPOINTED TO REPRESENT INDIGENT LITIGANTS ON ATTORNEY EXPENSES REIMBURSABLE FROM THE FEDERAL PRACTICE FUND

The court appreciates the professional services provided by members of its bar who accept appointments in civil cases. One reason the Federal Practice Fund was established is to have resources available to reimburse appointed counsel in civil cases for out-of-pocket expenses incurred in representing indigent parties. See NEGenR 1.7(g) and (h).

The local rule limits reimbursements to those expenses a) reasonably incurred after advance authorization, and b) for which no other source of payment exists. These guidelines, however, authorize appointed counsel to incur some expenses without prior authorization. The guidelines also explain what constitutes a reimbursable expense and the procedures used to request reimbursement.

1. Pre-authorized Limit and Authorization to Exceed.

a. Counsel appointed to represent indigent civil litigants (“counsel”) are authorized to incur reasonable and necessary reimbursable expenses (calculated in accordance with these guidelines) up to \$500 without submitting to the court any application for prior authorization.

b. Counsel must obtain advance approval from the court before incurring any reimbursable expense that would take the total of such expenses over \$500. Counsel will not receive reimbursement for expenses incurred before receiving prior authorization.

i. Counsel should electronically file a “Motion to Incur Expenses from the Federal Practice Fund,” setting forth the purposes for incurring the expenses, estimating the amount needed, and explaining efforts to keep that amount to a minimum and to obtain funds from other sources. This event is located in CM/ECF under “Motions.”

ii. If the application contains information that could jeopardize the client’s position or strategy in the case, counsel may submit it *ex parte* and *in camera* to the magistrate judge or bankruptcy judge assigned to the case and seek leave to file it under seal. If the magistrate judge is absent or unavailable, counsel may submit the application to the district judge assigned to the case.

2. Client’s Responsibility to Pay Litigation Expenses.

The client remains responsible for litigation expenses even if the court allows the client to proceed *in forma pauperis* or appoints counsel. See NECivR 3.3(b)(2). A client must repay any amounts reimbursed from the Federal Practice Fund if the case settles with a payment of money, fees and costs are awarded under 42 U.S.C. § 1988 or other statute, or the client is awarded money damages.

3. Examples of Authorized Expenses.

The following expenses may be incurred and are eligible for reimbursement in accordance with these guidelines. The list is not exhaustive.

a. Lodging and Meals. When counsel must travel out of town solely on business associated with the appointment, lodging and meal expenses actually incurred are reimbursable up to the government per diem allowance provided for court

personnel. Unless prior court approval is granted, the court will not reimburse lodging and meal costs for law clerks, paralegals, secretaries, investigators, or others.

b. Mileage. Counsel's travel costs are reimbursable at [the current government rate](#).

c. Copying. Actual costs up to twenty cents per page for copies of records and documents necessary for case preparation are reimbursable. No reimbursement is available for copies of cases or articles. Before incurring costs, counsel should bring to the court's attention a governmental defendant's attempts to impose higher copying costs.

d. Computerized Research. The cost of services such as Lexis or Westlaw is reimbursable.

e. Expert Witnesses. Expert witness fees and expenses are reimbursable at the rate allowed court employees.

f. Depositions. Court reporter fees for depositions of essential witnesses are reimbursable. To keep expenses down, counsel should conduct telephone depositions for out-of-town witnesses, tape-record depositions, and forego copies of non-essential transcripts.

g. Witness and Service Fees.

h. Telephone Calls and Postage. Necessary long distance charges and postage incurred in the client's representation are reimbursable. Excessive phone calls to and from the client will not be reimbursed.

i. Mediation Expenses. The client's share of the fee for a case mediated through the court's Mediation Plan is reimbursable. If the case is mediated privately,

only the portion of the fee that the client would have paid under the Mediation Plan is reimbursable.

j. Other Necessary Out-of-pocket Expenses as Justified.

4. Procedure for Reimbursement.

a. To receive reimbursement for expenses, counsel electronically files a “Motion for Reimbursement from the Federal Practice Fund.” This event is located in CM/ECF under “Motions.”

1. When practicable, counsel should wait to file requests for reimbursement until representation of the client is complete.

2. All expenses for which reimbursement is sought, even those under the \$500 amount, must be explained. Counsel must provide supporting documentation, including an itemized invoice. A copy of the motion and the supporting materials need not be served on opposing counsel or parties since they will not address the merits of the case.

3. If a request for reimbursement exceeds \$500, counsel must state which of the expenses were incurred after the \$500 limit was reached, and whether the court gave advance approval to incur those expenses.

4. If the supporting documentation or the contents of a motion for reimbursement are subject to the E-Government Act or might jeopardize a client’s position or strategy in the case if disclosed, counsel may file the materials as restricted or sealed pursuant to Nebraska Civil Rules 5.3 and 7.5 or Nebraska Criminal Rules 12.5 and 49.1.1.

5. All motions for reimbursement from the Federal Practice Fund are referred to the chief judge.

5. Questions.

Counsel may direct inquiries about the administration of the Fund or the procedures for requesting reimbursement from the Fund to the clerk of the court.

Attachment B

Guide to Judiciary Policy

Vol. 4: Court and Case Administration

Ch. 6: Fees

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§ 610 Overview

§ 610.10 Purpose

- (a) As authorized by Congress, the judiciary charges fees for filing a case, proceeding, etc., for services provided by the courts, and for electronic public access. This chapter briefly describes the history of federal judiciary fees, and provides links to the appropriate fee schedules.
- (b) This chapter also sets forth the policies approved by the Judicial Conference of the United States for the management and expenditure of attorney admission funds maintained locally by the courts of the United States. These are non-appropriated funds held in trust by the courts and are sometimes called “library funds” or “bench-and-bar funds.” The guidelines regarding attorney admission fees are general in nature and leave responsibility for detailed operations to each court. This chapter also provides policies regarding the bar admission of attorneys seeking to be admitted to a court.

§ 610.20 History

- (a) Fee payments in the federal judiciary have a long history. Beginning in 1792, Congress authorized clerks to charge “such fees in each state respectively as are allowed in the supreme courts of the same.” In 1919, Congress eliminated the concept of the self-supporting clerk by providing that expenses be paid from appropriated funds and that court fees be set by Congress and deposited in their entirety to the Treasury. In 1944, however, some fee-revenue responsibility was returned when the Judicial Conference was authorized to prescribe reasonable fees for miscellaneous services performed by clerks’ offices. [JCUS-SEP 44](#), p. 16; Pub. L. No. 426, 78th Cong., 1944.
- (b) Today, a portion of fee revenue is typically deposited into the Treasury Department’s general fund. Under the Federal Courts Improvement Act of 2000, Pub. L. No. 106-518 (Nov. 13, 2000), however, the judiciary is also permitted to deposit into the special fund for the judiciary any increases to fees on the miscellaneous fee schedules that have taken place since the enactment of the Act, and revenue from miscellaneous fees established since the Act’s effective date.

§ 610.30 Management

- (a) The Judicial Conference has issued miscellaneous fee schedules for:
 - the courts of appeals,
 - the district courts,
 - the bankruptcy courts,
 - the Court of Federal Claims,
 - the Judicial Panel on Multidistrict Litigation, and
 - electronic public access.
- (b) The Judicial Conference's Committee on Court Administration and Case Management reviews the miscellaneous fees triennially to ensure that they take into account inflation, and that appropriate mechanisms exist to protect public access to the courts for indigent parties. If appropriate, the Committee recommends changes in the fees to the Judicial Conference.

§ 610.40 Authority

- (a) As noted above, the Judicial Conference is permitted by statute to prescribe miscellaneous fees for the appellate, district, and bankruptcy courts, and for the Court of Federal Claims and the Judicial Panel on Multidistrict Litigation.
- (b) It is also authorized to prescribe fees for electronic public access to court records. (**Note:** The Judicial Conference separated the Electronic Public Access (EPA) fees into an independent miscellaneous fee schedule in March 2001 ([JCUS-MAR 01](#), p. 12).) The authority for each specific fee schedule is set forth below.

§ 610.50 Applicability

- (a) Courts may only collect fees prescribed by statute or authorized by the Judicial Conference.
- (b) All court electronic records are covered by the [EPA fee schedule](#).

§ 610.60 Exemptions for Federal Agencies

- (a) The preamble to each miscellaneous fee schedule states that the United States should not be charged fees under this schedule except where the information requested is available through remote electronic access.
- (b) The preamble further provides that agencies or programs funded from judiciary appropriations (i.e., those authorized by the Criminal Justice Act

(CJA), [18 U.S.C. § 3006A](#), and bankruptcy administrators) should not be charged any miscellaneous fees.

§ 610.60.10 Guidance for Exemptions for Federal Agencies

In March 2015 ([JCUS-MAR 15](#), p. 9-10), the Judicial Conference approved the following policy guidance to help courts apply fee exemptions for the United States that are not funded by judiciary appropriations:

- (a) The exemption for the “United States” contained in the court miscellaneous fee schedules applies exclusively to any department, agency, or instrumentality in the executive or legislative branches of the United States Government (USG), any independent federal agency or wholly-owned USG corporation, and Federal Reserve banks and branches.
- (b) The exemption is not available for private individuals or entities solely because of contractual relationships with federal government entities.
- (c) Entities seeking to receive this (or any) fee exemption bear the burden of establishing that they are entitled to the exemption.

§ 610.70 Fee Waivers

Other than where expressly allowed in the fee schedules (e.g., Items 4 and 11 of the Bankruptcy Court Miscellaneous Fee Schedule) or by statute (**see:** § 610.80), fee waivers are generally prohibited. Judicial Conference policy allows certain types of users to ask courts to exempt them from fees for Public Access to Court Electronic Records (PACER). **See:** [EPA fee schedule](#) and [§ 630.20](#).

§ 610.80 Applications to Proceed In Forma Pauperis

- (a) Eligible parties may proceed without prepayment of fees under [28 U.S.C. § 1915](#) (district courts and courts of appeals).
- (b) The filing fee in a chapter 7 bankruptcy case may be waived in accordance with [28 U.S.C. § 1930\(f\)](#). Judicial Conference guidance on fee waivers in bankruptcy courts is posted on the judiciary’s public website (**see:** [Guide, Vol. 4, § 820 \(Chapter 7 Fee Waiver Procedures\)](#)).

§ 620 Court-Specific Fees

§ 620.10 Courts of Appeals

§ 620.10.10 Statutory Fees

There are no statutory fees for filings in the courts of appeals.

§ 620.10.20 Appellate Miscellaneous Fee Schedule

The [miscellaneous fee schedule](#) for the courts of appeals is authorized by [28 U.S.C. § 1913](#). The current schedule is also set forth as a Note to that statute.

§ 620.20 District Courts

§ 620.20.10 Statutory Fees

The filing fee for “instituting any civil action, suit or proceeding” in a district court is set by [28 U.S.C. § 1914\(a\)](#), along with the fee for application for a writ of habeas corpus.

§ 620.20.20 District Miscellaneous Fee Schedule

The [miscellaneous fee schedule](#) for the district courts is authorized by [28 U.S.C. § 1914\(b\)](#). The current schedule is set forth as a Note to that statute.

§ 620.30 Bankruptcy Courts

§ 620.30.10 Statutory Fees

The fees for commencing a case under Title 11, for converting a case under Title 11, and the quarterly fees to be paid in chapter 11 cases, are set forth in [28 U.S.C. § 1930](#).

§ 620.30.20 Bankruptcy Miscellaneous Fee Schedule

The [miscellaneous fee schedule](#) for the bankruptcy courts is authorized by [28 U.S.C. § 1930](#). The current schedule is also set forth as a Note to that statute.

§ 620.40 Court of Federal Claims

The Judicial Conference is authorized by [28 U.S.C. § 1926](#) to set a fee schedule for the Court of Federal Claims. For the current schedule, which is also set forth as a Note to that statute, **see:** [United States Court of Federal Claims Fee Schedule](#), posted on the judiciary’s public website.

§ 620.50 Judicial Panel on Multidistrict Litigation

The Judicial Conference is authorized by [28 U.S.C. § 1932](#) to set a fee schedule for the Judicial Panel on Multidistrict Litigation. The current [schedule](#) is set forth as a Note to that statute.

§ 630 Electronic Public Access (EPA) Fee Schedule

§ 630.10 Fee Schedule

- (a) The fee schedule for the EPA program applies to all federal courts.
- (b) Section 404 of Pub. L. No. 101-515 permits the Conference to prescribe reasonable fees for public access to information in electronic form.
- (c) Section 205 of the E-Government Act of 2002 states that fees for electronic information can only be charged to the “extent necessary” (Pub. L. No. 107-347).
- (d) The EPA fee schedule, approved by the Judicial Conference, sets the rate at which users are charged for the ease, speed, and convenience of remote electronic access to the judiciary’s case information. It also allows each court to review and evaluate requests for fee exemptions for customers accessing that court’s PACER system.
- (e) For the schedule, which is also set forth as a Note to each of the statutes authorizing the Judicial Conference to set fees, **see:** [PACER intranet site](#).

§ 630.20 Guidance on Granting EPA Fee Exemptions

- (a) The EPA fee schedule provides that individual courts may, upon a showing of cause, exempt indigents, bankruptcy case trustees, individual researchers associated with educational institutions, section 501(c)(3) not-for-profit organizations, pro bono attorneys, and pro bono alternative dispute resolution (ADR) neutrals from payment of the user access fee. Courts must find that parties from the classes of persons or entities listed above seeking exemption have demonstrated that an exemption is necessary to avoid unreasonable burdens and to promote public access to information.
- (b) For individual researchers, courts must also find that the defined research project is intended for academic research, and not for commercial purposes or internet redistribution.
 - (1) Any user granted an exemption agrees not to sell for profit the data obtained as a result.

- (2) Any transfer of data obtained as the result of a fee exemption is prohibited unless expressly authorized by the court.
 - (3) Exemptions may be granted for a definite period of time and may be revoked at the discretion of the court granting the exemption. ([28 U.S.C. § 1913, 1914, 1926, 1930, 1932](#)).
 - (4) For more information on the fee exemptions, **see:** [PACER intranet site](#).
- (c) Courts should not, however, exempt individuals or groups that have the ability to pay the statutorily established access fee. Examples of individuals and groups that a court should not exempt include: local, state or federal government agencies, members of the media, privately paid attorneys or others who have the ability to pay the fee.

§ 640 Transcript Fees

For information on transcript fees, which are not a part of the miscellaneous fee schedules, **see:** [Guide, Vol. 6 \(Court Reporting\), § 530](#).

§ 650 Refunding Fees

§ 650.10 Applicability

The Judicial Conference's current policy on refunding filing fees, in effect since 1949, has been broadly interpreted to generally prohibit refunds of fees due upon filing, even if a party filed the case in error or the court dismissed the case or proceeding ([JCUS-MAR 49](#), p. 202).

§ 650.20 Electronically Paid Fees

With the advent of the Case Management/Electronic Case Files (CM/ECF) system, difficulties with the application of the refund policy have greatly increased as filing parties can inadvertently make erroneous or duplicate payments online. Accordingly, in March 2005, the Judicial Conference approved guidance for the refund of fees that are paid electronically, which addresses only limited refund authority by the courts when user errors in electronic payments are made and is intended to assist the courts in the exercise of their discretion in this area. [JCUS-MAR 05](#), p. 11. This guidance does not replace the general refund policy stated above in [§ 650.10](#). The guidance is:

- (a) Judicial Conference policy generally prohibits the refund of fees; this guidance addresses only limited refund authority by the courts when errors in electronic payments are made.

- (b) A court's procedures for addressing fee refunds in CM/ECF should be developed by the judges of the court in conjunction with their clerk.
- (c) The authority to approve a refund is a judicial determination. This determination may be delegated to the clerk as long as the court's procedures clearly address the type of refund that a clerk can approve.
- (d) Requests for refunds should be made by either motion or application, and procedures governing refunds may be set forth by local rule or standing order.
- (e) If the court discovers an erroneous filing for which a fee has not yet been collected, the court may correct the erroneous filing administratively and not collect the fee.
- (f) Refunds should be processed through the electronic credit card system; courts should not issue refunds through checks.
- (g) In the event that a particular attorney or law firm continues to make repeated mistakes when submitting fees and requesting refunds, the court may consider remedial action, such as issuing an order to show cause why further requests for refunds should be considered.

§ 660 Attorney Admissions

§ 660.10 Verification

In March 2009 ([JCUS-MAR 09](#), p. 14), the Judicial Conference approved a policy requiring all courts to adopt the following two safeguards for verifying bar admission of attorneys seeking to be admitted to the court:

- (a) An admission form that gathers sufficient information to allow the court to verify the state bar admission status of an applicant; and
- (b) A procedure for verifying that the information is correct.

§ 660.15 Conference-Prescribed Attorney Admission Fee

- (a) Attorneys admitted to practice before a United States court of appeals, district court, or the Court of Federal Claims must pay a first-time admission fee to the clerk of the court.
- (b) The first-time attorney admission fee for the courts of appeals, district courts, and the Court of Federal Claims is uniform and is set by the Judicial Conference under [28 U.S.C. §§ 1913, 1914, and 1926](#).

- (c) The clerk deposits part of that amount into the special fund created under [28 U.S.C. § 1931](#) and the balance into the Treasury of the United States as miscellaneous receipts. **See:** [Pub. L. No. 104-317, § 404\(a\)](#); [28 U.S.C. § 751\(e\)](#); [31 U.S.C. § 3302](#).

Note: The Conference-prescribed attorney admission fee does not become part of a court's attorney admission fund.

§ 670 Courts' Local Attorney Admission Funds

- (a) Local attorney admission funds are non-appropriated funds that comprise attorney admission fees collected by the courts of appeals, district courts, and Court of Federal Claims that are in addition to the original attorney admission fee prescribed by the Judicial Conference under [28 U.S.C. §§ 1913, 1914, and 1926](#). The amount of these fees may be set by local rule or court order.
- (b) Some courts further require attorneys to pay periodic fees to maintain their membership in the court's bar or a special fee to appear pro hac vice, which are included in the local attorney admission fund.
- (c) Attorney admission funds must be segregated from all other monies in the custody of the court, and must contain only attorney admission fees, plus any interest income accrued on such fees.
- (d) Except as provided below in [§ 670.20\(b\)\(6\)](#), the court must not place into its attorney admission fund monies from other sources, including but not limited to:
- contempt fines,
 - proceeds of sales of local rules,
 - unclaimed funds,
 - undistributed interest on registry accounts,
 - gifts or bequests of cash, or
 - copying fees.

§ 670.10 Authority to Maintain Attorney Admission Fund

- (a) In 1951, the Judicial Conference resolved that the courts of appeals' attorney admission fees, collected under authority of [Fed. R. App. P. 46\(a\)](#), were not monies received for the use of the United States and therefore need not be deposited into the U.S. Treasury. **See:** [JCUS-MAR 51](#), p. 7.

- (b) In 1951, the Comptroller General of the United States announced that there would be no objection to the practice of the courts of appeals' retaining these local attorney admission funds. [Comp. Gen. Opinion No. B-56200, June 8, 1951](#).
- (c) The Comptroller General later extended this opinion to cover attorney admission funds maintained by the United States district courts, the United States Court of Claims, the Court of Customs and Patent Appeals, and the United States Court of Military Appeals. **See:** Comp. Gen. Opinions No. B-56200, issued, respectively, on March 31, 1959; May 4, 1965; July 6, 1965; and [Sept. 14, 1976](#). **See also:** [Laughlin v. Clephane](#), 77 F. Supp. 103 (D.D.C. 1947), which held that fees paid by applicants for admission to the bar are the property of the court and not of the U.S. Treasury.
- (d) In September 1997, the Judicial Conference issued a formal policy clarification stating that pro hac vice attorney admission fees and periodic admission renewal fees may also be retained in the courts' local attorney admission funds. **See:** [JCUS-SEP 97](#), pp. 58-59.

§ 670.20 Policies for Fund Expenditure

- (a) Attorney admission funds must be used only for purposes that benefit the members of the bench and the bar in the administration of justice.
- (b) Examples of proper common uses of attorney admission funds include, but are not limited to, the following:
 - (1) Attorney admission proceedings, including expenses of admission committees and admission ceremonies.
 - (2) Attorney discipline proceedings, including, but not limited to:
 - expenses of investigating counsel for disciplinary enforcement,
 - stenographers,
 - meeting room rentals,
 - postage,
 - travel expenses, and
 - fees of witnesses.
 - (3) Furnishings, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations. Examples:
 - furniture;
 - photocopiers and fax machines;
 - beverage supplies or service;

- microwave, refrigerator, and other appliances; and
 - television, telephone and internet service.
- (4) Surety bond for the custodian of the fund. (The bond may only cover monies in the fund.)
 - (5) Fees for services rendered by outside auditors or accountants in auditing the fund.
 - (6) Reimbursement of pro bono counsel for out-of-pocket expenses, payment of compensation to pro bono counsel, and payment of witness fees and other expenses for indigent pro se civil litigants. In the event of an award of attorney's fees or costs to pro bono counsel in the course of such litigation, the court may order return to the fund of any payments made from the fund to counsel for fees and expenses in an amount equal to the award.
 - (7) Donations to organizations that provide legal representation, advice, or assistance to unrepresented litigants in federal civil matters, including representation for settlement conferences or other alternative dispute resolution activities, provided that such organizations use the donation for no other purpose.
 - (8) Reimbursement by district courts to jurors for lost or damaged personal property incident to their jury service, when compensation is not available under a statute such as the Federal Tort Claims Act.
 - (9) Hospitality items (e.g., food, beverages, mementos) for which appropriated funds may not be used, including meals and beverages for judges and employees attending a bench/bar meeting or similar event at their official duty station in a non-official capacity.
 - (10) Cash donations to law-related educational or charitable organizations, such as a historical society, law school, or bar association, for purposes that advance the administration of justice in the courts. In considering such donations, care should be exercised to avoid the appearance of impropriety, undue favoritism, conflicts of interest and other concerns under the [Codes of Conduct for United States Judges and Judicial Employees \(Guide, Vol. 2A\)](#).
 - (11) Expenses of circuit judicial conferences, to the extent permitted by Judicial Conference policy. Expenditures may be paid from any court's attorney admission fund. **See:** [JCUS-MAR 05](#), p. 5.

- (12) Any other purpose for which appropriated funds may not legally be used that will benefit the bench and the bar in the administration of justice. For limitations, **see:** [§ 670.30](#).
- (c) For internal control requirements applicable to the attorney admission fund, **see:** [Guide, Vol. 11, § 270](#).

§ 670.30 Limitation on Attorney Admission Fund

§ 670.30.10 Rule Against Augmenting Appropriations

- (a) In General

Except as provided below in paragraph (b), attorney admission funds must not be used to pay for goods or services for which appropriations may legally be used, even if the appropriated funds are exhausted or otherwise not available (e.g., because an expenditure would exceed a judiciary spending limit). Use of attorney admission funds for any purpose for which appropriated funds may legally be used constitutes an impermissible augmentation of appropriations.

- (b) Exception for Library Books and Periodicals

Notwithstanding the rule against augmentation, attorney admission funds may be used to purchase books, periodicals and other resource materials for court libraries for which appropriated funds may also be used. This exception was recognized by the General Accounting Office (now Government Accountability Office) in the opinions cited above in [§ 670.10](#).

§ 670.30.20 Salary or Personal Benefit

- (a) In General

Attorney admission funds must not be used to supplement the salary of any judge or court employee, or provide a personal benefit to any judge or court employee, or his or her family member.

- (b) Exception

As a limited exception, a judge or court employee, or his or her family member, may receive a *de minimis* personal benefit incidental to a proper expenditure from the attorney admission fund (e.g., meals, refreshments or hospitality items provided under [§ 670.20\(b\)\(9\)](#)).

§ 670.30.30 Official or Personal Travel

(a) In General

Attorney admission funds must not be used to pay for official or personal travel by a judge or court employee or by his or her family member.

(b) Exception

As a limited exception, attorney admission funds may be used to pay for local transportation of a judge or court employee to attend bench/bar events.

§ 670.40 Printing of Local Rules

Attorney admission funds must not be used to pay for the printing of local rules.

§ 670.50 Unreasonable Accumulation of Funds

The court must avoid unreasonable accumulation of attorney admission funds.

- (a) What constitutes “unreasonable” will vary from court to court and is not susceptible of a uniform definition. Each court should look to both its past practices and its upcoming needs to set a “reasonable” limit on the accumulation of attorney admission funds.
- (b) If a court finds its fund balance is too high, it is recommended that, rather than unduly increase expenditures, the court reduce or eliminate the local fee collections until the balance is in line with needs.

§ 670.60 Court Responsibilities

Each court that maintains an attorney admission fund must do the following:

- (a) Adopt a written plan for the administration and operation of the fund and determine the means by which policy is to be set and expenditures are to be authorized.
- (b) Appoint a custodian of the fund.
- (c) Provide for an accounting by the custodian to be rendered to the court at least annually, and for audits of the fund as deemed necessary.
- (d) At the option of the court, appoint an advisory committee, which may include judges and members of the bar, to advise the court and the custodian on the administration of the fund. Members of the committee must serve without compensation.

§ 670.70 Duties of the Custodian

§ 670.70.10 In General

As prescribed in the plan adopted by the court, the custodian of the fund must:

- (a) Ensure that all monies for the fund are received, safeguarded, deposited, disbursed, and accounted for in accordance with any pertinent laws. The court may require the countersignature of one other person for the expenditure of funds.
- (b) Secure a bond, to be paid for from the fund, if required by the court.
- (c) Establish an accounting system as required by the court.
- (d) Ensure that financial statements and operating reports are prepared in a timely fashion and sign these statements, thereby certifying that the statements and reports accurately present the financial condition of the fund. It is recommended that the reports be prepared at least quarterly and state the following:
 - (1) beginning balance of assets;
 - (2) revenue during reporting period: collections and investment;
 - (3) disbursements during reporting period, listed by major classifications called for in the court's attorney admission fund plan;
 - (4) ending balance of assets (bank balances and undeposited collections);
 - (5) obligations, accounts payable or known future expenditures; and
 - (6) available balance.
- (e) Deposit or invest monies of the fund.
- (f) Perform such other functions as the court may direct.

§ 670.70.20 Duties On Appointment of Successor Custodian

- (a) When a successor custodian is appointed, it is recommended that the outgoing custodian prepare and sign the following statements in conjunction with an exit audit or inspection conducted by an auditor or disinterested person as designated by the court:
 - (1) A statement of assets and liabilities;

- (2) A statement of operations or of receipts and disbursements covering the period since the last statement of operations and net worth, up to the date of transfer to the successor custodian; and
 - (3) A statement of the balance in any fund accounts as of the date of transfer to the successor custodian.
- (b) It is recommended that the successor custodian execute a receipt for all funds after being satisfied of the accuracy of the statements and records provided by the outgoing custodian. Acceptance by the successor custodian may be conditioned on audit and verification when the circumstances warrant.

§ 670.80 Maintenance of Funds

§ 670.80.10 Deposits

- (a) All monies of the attorney admission fund must be deposited only in federally insured banks or savings institutions.
- (b) When practical and feasible, all substantial sums should be placed in interest-bearing accounts, government securities, or money market funds invested in government obligations, at the direction of the court or advisory committee.

§ 670.80.20 Audits

Attorney admission funds are subject to audit by the Administrative Office of the U.S. Courts.

- (a) The court may appoint an outside auditor or disinterested person (who may be a government employee) to conduct such additional audits as the court determines may be necessary or appropriate.
- (b) The custodian must provide the written results of such audits to the court and may make them available on request to members of the bar of the court.
- (c) If not a government employee acting in an official capacity, the auditor may receive reasonable compensation from the attorney admission fund.

§ 670.80.30 Procedures for Dissolution of the Fund

The court may dissolve its attorney admission fund as follows:

- (a) Before dissolution, a final audit must be performed in accordance with [§ 670.80.20](#) and a written accounting rendered to the court.

- (b) The custodian must ensure that all outstanding obligations are liquidated before dissolution of the fund, including any expenses resulting from the required final audit.
- (c) The court must dispose of the remaining monies in ways that fulfill the purposes of the attorney admission fund.

REVISION CONTROL LOG

Section Revised	Date Revised	Reason for Revision	Judicial Approval
I(A); III(E); IV(A)	1/31/06	Plan updated to include the following changes: <ul style="list-style-type: none"> • Updated reference to existing NELR 67.4 to NEGenR 1.2(I) in (I(A)). • Updated reference to existing NELR 83.5(j) to NEGenR 1.7(g) in (III(E)). • Removed footnote ²See, e.g., General Order 93-06, available in http://www.ned.uscourts.gov > General Orders. General Order No. 93-06 rescinded on August 6, 2004, and superseded by NEGenR 1.7(h). 	01/31/06
Attach- ment A	01/31/06	Updated references of existing NELRs 67.4, 83.4(f)(g), and 3.5(h) to NEGenR 1.2(I), 1.7(g) and (h), and NECivR 3.3(b)(2) in (Attachment A).	01/31/06
III(A)	03/20/07	The court has elected to no longer contract with a single attorney for prisoner civil litigation cases. Instead, attorneys may be appointed by the judges, as needed. Language addressing only paying attorney fees to counsel under contract was removed and replaced with language which addresses the fee structure and requirements for attorneys seeking payment.	07/27/07
IV(C)	03/20/07	At the November 2, 2006 Federal Practice Committee Meeting, the Committee approved changing the collection of the annual assessment fee from \$5 every year to \$10 every other year, starting in January 2007.	07/27/07
III(B)	03/20/07	Clarified that non-appropriated funds may not be used for criminal guardian ad litem expenses.	07/27/07
Attach- ment A	03/20/07	Modified the procedure for counsel seeking reimbursement of expenditures from the Fund.	07/27/07
VI(D)	06/15/07	At the April 23, 2007 Federal Practice Committee Meeting, Chief Judge Bataillon recommended that the Committee develop an annual budget, identifying recommended uses of the Fund.	07/27/07
VI(J)	06/15/07	Language added to plan to allow the clerk authority to exceed the chief judge's authorized disbursement amount by no more than 10%. The intent is to alleviate having to seek re-approval from the chief	07/27/07

Section Revised	Date Revised	Reason for Revision	Judicial Approval
		judge for nominal miscellaneous expenditures or cost overruns.	
Attachment 1	06/15/07	The clerk's office created an event in CM/ECF for counsel to use when seeking authorization to incur expenses. The new event is titled "Motion to Incur Expenses from the Federal Practice Fund."	07/27/07
III(A)	10/23/07	Added "or other closing documents" back to document to clarify that counsel representing indigent litigants are paid for the second half of their fee, even if there is not a judgment in the case. Similar language was in the original contract with Asaka. "Counsel will be paid the remainder of the fee after the court enters judgment or other closing documents in the case."	10/23/07
II(A) and II(B)	07/14/08	Plan updated to include the following: <ul style="list-style-type: none"> • Appointment of the of the chiefs of probation and pretrial to the committee, • Number of members increased to no more than 21, and • Appointments of the chiefs of the probation and pretrial services offices as ex officio members to the committee. 	07/14/08
II(A); II(A)(2), II(B), II(B)(1), III(A), VIII(B)(1), VIII(B)-(F)	12/01/11	The Federal Practice Committee approved the Amended Plan on December 1, 2011, and the judges approved the plan on December 23, 2011. Changes of note to the plan include: <ul style="list-style-type: none"> • Expanded sections outlining permissible and impermissible uses of the fund (II(A) and III(A)); Added section directing the clerk's office to maintain a compilation of requests for fund expenditures that were sent to the Office of General Counsel for guidance (II(A)(2)); • Added section directing the clerk's office to maintain a compilation of request for fund expenditure that were sent to the Office of General Counsel for guidance (II(A)(2)); • Added section formalizing the role of the committee's budget subcommittee (II(B)); • Added Bankruptcy Court Clerk to list of committee members (VIII(B)(1)); and • Added provision that chief judge may appoint a 	12/23/11

Section Revised	Date Revised	Reason for Revision	Judicial Approval
		designee to oversee the committee and subcommittees (II(B)(1) and VIII(B)-(F)).	
V.E.	01/16/13	Added debit cards as acceptable payment method.	01/18/13
	03/10/14	Converted Plan to Word from WordPerfect.	
V.E.	03/11/14	Changed requirement from two signatures/approvals to one.	03/11/14
I; II(A); III(A); IV(A) and (B); V(D); VII(B); VIII(B)(1); Att A 4(a)(4)		Summary of changes: <ul style="list-style-type: none"> • Section I - removed references to 28 U.S.C. § 1913, which applies to the appellate courts • Sections I, II, III, IV, V, VII, VIII - updated citations to Guide to reflect attorney admission guidance is now found in Chapter 6 • Section IV - updated language to conform with Guide Transmittal 04-13 • Section VIII - removed reference to chief of pretrial services • Section 4.a.4 of guidelines - updated citations to local rules 	06/17/16