

# COURT NOTICES

## AMENDMENT OF RULE Rules of the Chief Judge

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby amend, effective immediately, sections 8.1 and 36.2(c) of the Rules of the Chief Judge, relating to degrees of relationship, to read as follows:

### § 8.1 Prohibited Appointments

No person shall be appointed to a position in any state-paid court of the Unified Court System if he or she is a relative within the [sixth] *fourth* degree of relationship, or the spouse of such relative, of any judge or the spouse of such judge of the same court within the county in which the appointment is to be made. The Appellate Division and Appellate Terms of the Supreme Court shall not be considered the same court as the Supreme Court for purposes of this Part.

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### § 36.2 Appointments

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#### (c) Disqualification from appointment.

(1) No person shall be appointed who is a judge or housing judge of the Unified Court System of the State of New York, or who is a relative of, or related by marriage to, a judge or housing judge of the Unified Court System within the [sixth] *fourth* degree of relationship.

## AMENDMENT OF RULE Rules of the Chief Judge

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby amend, effective May 1, 2006, Part 36 of the Rules of the Chief Judge, relating to the Office of the Public Administrator, to read as follows:

### §36.1 Application

(a) Except as set forth in subdivision (b), this Part shall apply to the following appointments made by any judge or justice of the Unified Court System:

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*(11) a public administrator within the City of New York and for the counties of Westchester, Onondaga, Erie, Monroe, Suffolk and Nassau and counsel to the public administrator, except that only sections 36.2(c) and 36.4(e) of this Part shall apply, and that section 36.2(c) shall not apply to incumbents in these positions until one year after the effective date of this paragraph.*

(b) Except for sections 36.2(c)(6) and 36.2(c)(7), this Part shall not apply to:

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(2) The appointment of, or the appointment of any persons or entities performing services for, any of the following:

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*(v) except as set forth in section 36.1(a)(11), a [public administrator or] public official vested with the powers of an administrator;*

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### §36.4 Procedure After Appointment

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*(e) Approval and Reporting of Compensation Received by Counsel to the Public Administrator.*

*(1) A judge shall not approve compensation to counsel to the public administrator in excess of the fee schedule promulgated by the administrative board of the public administrator under SCPA 1128 unless accompanied by the judge's statement, in writing, of the reasons therefor, and by the appointee's affidavit of legal services under SCPA 1108 setting forth in detail the services rendered, the time spent, and the method or basis by which the requested compensation was determined.*

*(2) Any approval of compensation in excess of the fee schedule promulgated by the administrative board of the public administrator shall be reported to the Office of Court Administration on a form promulgated by the Chief Administrator and shall be accompanied by a copy of the order approving compensation, the judge's written statement, and the counsel's affidavit of legal services, which records shall be published as determined by the Chief Administrator.*

*(3) Each approval of compensation of \$5,000 or more to counsel shall be reported to the Office of Court Administration on a form promulgated by the Chief Administrator and shall be published as determined by the Chief Administrator.*

## AMENDMENT OF RULE Rules of the Chief Judge

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby promulgate, effective immediately, a new Part 43 of the Rules of the Chief Judge, relating to appointment by the Family Court of Court Appointed Special Advocates programs and to the establishment of a Court Appointed Special Advocates Assistance Program, to read as follows:

### PART 43

#### COURT APPOINTED SPECIAL ADVOCATES PROGRAMS

§43.0. *General. Recognizing the vital role that a Court Appointed Special Advocates program ("CASA program") can perform in aiding Family Court efforts to further the health, safety and well-being of children, and the need to insure that each such program has adequate resources, this rule is promulgated to standardize use of CASA programs in the courts of this State and to establish a program of State assistance under the direction of the Chief Administrator of the Courts. For purposes of this rule, a CASA program shall mean a not-for-profit corporation affiliated with, and in compliance with, the standards set forth by the National and New York State Court Appointed Special Advocates Associations.*

§43.1. Use of CASA programs. A CASA program may be appointed by Family Court in its discretion to provide assistance to the Court in cases regarding children in or at risk of out-of-home placement. The CASA program is not a party to the proceeding. To be eligible for such appointment, a program must meet regulations promulgated by the Chief Administrator of the Courts. Such regulations shall insure that each CASA program is capable of regularly providing thorough information about the health, safety, well-being and permanency plans of children and their families to the Court, the parties and law guardian; monitoring Family Court orders; meeting with children in the presence of, or with the consent of, their law guardians or as directed by the Family Court; working with legal and service providers assigned to their cases to facilitate collaborative solutions; and helping to promptly secure safe, stable homes and nurturing families for children so that they may thrive.

§43.2. State assistance. The Chief Administrator of the Courts may by rule establish a program for the provision of grants of State assistance to individual CASA programs within appropriations annually made available to the Judiciary.

AMENDMENT OF RULE

Chief Administrator's Rules Governing Judicial Conduct

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby amend, effective immediately, sections 100.3(C)(3) and 100.3(E)(1) of the Chief Administrator's Rules Governing Judicial Conduct, relating to degrees of relationship, to read as follows:

§ 100.3 A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

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(C) Administrative Responsibilities

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(3) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered. A judge shall not appoint or vote for the appointment of any person as a member of the judge's staff or that of the court of which the judge is a member, or as an appointee in a judicial proceeding, who is a relative within the [sixth] fourth degree of relationship of either the judge or the judge's spouse or the spouse of such a person. A judge shall refrain from recommending a relative within the [sixth] fourth degree of relationship of either the judge or the judge's spouse or the spouse of such person for appointment or employment to another judge serving in the same court. A judge also shall comply with the requirements of Part 8 of the Rules of the Chief Judge (22 NYCRR Part 8) relating to the Appointment of relatives of judges. Nothing in this paragraph shall prohibit appointment of the spouse of the town or village justice, or other member of such justice's household, as clerk of the town or village court in which such justice sits, provided that the justice obtains the prior approval of the Chief Administrator of the Courts, which may be given upon a showing of good cause.

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(E) Disqualification

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

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(d) the judge knows that the judge or the judge's spouse, or a person known by the judge to be within the sixth degree of relationship to either of them, or the spouse of such a person:

- (i) is a party to the proceeding;
- (ii) is an officer, director or trustee of a party;
- (iii) has an interest that could be substantially affected by the proceeding
- [(iv) is likely to be a material witness in the proceeding;]
- (e) the judge knows that the judge or the judge's spouse, or a person known by the judge to be within the fourth degree of relationship to either of them, or the spouse of such a person, in acting as a lawyer in the proceeding or is likely to be a material witness in the proceeding.

AMENDMENT OF RULE

Rules of the Chief Administrator of the Courts  
Uniform Rules of the Family Court

Pursuant to the authority vested in me, and upon the advice and consent of the Administrative Board of the Courts, I hereby promulgate, effective immediately, a new Part 117 of the Rules of the Chief Administrator of the Courts, governing Court Appointed Special Advocates (CASA) programs assigned by the Family Court and authorizing State assistance for Court Appointed Special Advocates (CASA) programs, and a new paragraph (5) of subdivision (b) of Section 205.5 of the Uniform Rules of the Family Court, relating to access by Court Appointed Special Advocate programs to Family Court records, to read as follows:

PART 117

COURT APPOINTED SPECIAL ADVOCATES PROGRAMS

§117.0 General. In order to be eligible for appointment by a Family Court to assist the Court, a CASA program must be in compliance with the provisions of section 117.2 of this Part.

§ 117.1 Definitions. (a) "CASA program" means a Court Appointed Special Advocate program structured and administered as provided herein.

(b) "Grant recipient" means any organization receiving funds pursuant to this Part.

(c) "Chief Administrator" means the Chief Administrator of the Courts or his or her designee.

§117.2 Program Requirements. (a) Structure. A CASA program shall be a not-for-profit corporation affiliated with, and in compliance with, the standards set forth by the National and New York State CASA Associations. Such a program may be part of a legally incorporated not-for-profit organization or be incorporated (or in the process of being incorporated) as a free-standing not-for-profit organization.

(b) Administration. (1) Each CASA program shall be governed by a board of directors, which hires and supervises the program's executive director and maintains legal and fiduciary responsibility for the program. The board shall meet a minimum of four times per year. All board members shall receive board training within six months of appointment, be apprised of all duties and responsibilities, sign written conflict of interest statements, and be guided by written bylaws approved by the full board. The board shall develop a written mission statement and shall implement a strategic plan to further its mission.

(2) Each CASA program housed within a multi-program not-for-profit agency shall have an advisory committee with sole responsibility for monitoring such program. A member of the advisory committee shall serve on the not-for-profit agency's board of directors.

(c) Record-keeping. Each CASA program shall have in written form the following:

(1) Goals, objectives, policies, and procedures, including personnel policies, ethics and conflict of interest policies for staff, volunteers and board members;

(2) Staff and volunteer job descriptions, qualification and evaluation forms;

(3) Approved training curricula for a minimum of 30 hours of pre-service and 12 hours of annual in-service training;

(4) A volunteer recruitment plan that encourages diversity of volunteers and that provides for the screening of volunteers;

(5) A plan for the support and supervision of volunteers by qualified and trained supervisory staff;

(6) Guidelines for record-keeping and data collection, including provisions for confidentiality of print and electronic files both at the program's main office and in all off-site locations in conformity with subdivision (d) of this section;

(7) A resource development plan and, with respect to a CASA program housed within a multi-program not-for-profit organization, a fund-raising protocol outlining responsibilities;

(8) Rules for staff and volunteers prohibiting ex parte communications with the Court and with represented parties except with the consent of or in the presence of such parties' attorneys;

(9) A current program budget containing expenditure and income projections and the sources and amounts of income from each source; and

(10) Internal financial control procedures.

(d) Confidentiality of Records. Each CASA program shall safeguard the confidentiality of all information and material in accordance with applicable state and federal laws, rules and regulations, including, but not limited to, court records and social services, health, educational, drug treatment and other records obtained from other agencies. Each CASA program shall ensure that all of its board members, officers, employees and volunteers are trained in, and comply with, these confidentiality requirements.

(e) Reporting. Each CASA program shall report annually and throughout the year on the operation of the program as directed by the Chief Administrator.

(f) Legal consultation. Each CASA program shall ensure that an attorney is available to provide its executive director and members of its board with legal consultation in matters regarding administration of the program.

(g) Liability protection. Each CASA program shall have liability protection for its Board, staff and volunteers and follow standards set by the New York State and National CASA Associations for participation in continual quality improvement.

(h) Screening Procedure for staff and volunteers. Each CASA program shall have a written screening procedure, approved by the local board and the Chief Administrator, for staff and volunteers and appropriate program responses to information obtained from the screening process. The procedure shall address at a minimum the following: written applications for volunteers and staff, screening by the New York State Central Register for child abuse and maltreatment, a criminal history records search, and personal interviews by the program director or other designated staff. Screening shall be accomplished pursuant to prescribed mechanisms established by the Chief Administrator in conjunction with the New York State Office of Children and Family Services.

(i) Eligibility for appointment to assist in Family Court cases. In order to be eligible for appointment by the Family Court to provide assistance in cases, a CASA program shall, in addition to complying with this Part, comply with all statutes, and with all other court rules and standards adopted by the Chief Administrator.

§117.3 CASA Assistance Program. (a) Funding. This section establishes a program for the provision of grants of state assistance to individual CASA programs, which shall be known as the CASA Assistance Program. This Program shall be administered by the Chief Administrator in order to disburse funds appropriated by the New York State Legislature, as well as funds received by the Unified Court System from any public or private agency or person, including the Federal government, to be used to assist CASA programs designated by a Family

Court to assist the Court. Payment of funds pursuant to this section shall be made pursuant to contract entered into between the Unified Court System and the grant recipient.

(b) Application procedures. No CASA Assistance Program grant funds may be disbursed to any CASA program unless the Chief Administrator first approves an application as provided hereunder.

(1) Who may apply. To be eligible for funding pursuant to this section, a CASA program shall comply with the provisions of section 117.2 of this Part and it shall:

(i) provide services without cost to the children and families served; and

(ii) whenever reasonably possible, make use of public facilities at free or nominal cost.

(2) When and where to apply. To be eligible for funding pursuant to this section, the CASA program or the not-for-profit corporation of which it is a part must file its application with the Chief Administrator at such time as directed by the Chief Administrator.

(3) Contents of application. Each application for grant funding filed with the Chief Administrator pursuant to this section shall be in such form as the Chief Administrator shall prescribe and shall include, at a minimum, the following:

(i) a specification of the amount of funding sought;

(ii) a detailed description of the purpose or purposes to which the funding will be applied and the administrative capacity of the applicant to operate the program;

(iii) a detailed description of the CASA program or programs that will benefit from the funding, including information as to numbers of staff and volunteers; qualifications, professional and employment backgrounds and education level of all staff and volunteers; caseload to be served in each county covered by the application; budget; availability of space and other operational support; facilities needs; information about the county or counties served; and the child protective and foster care populations in each county;

(iv) information concerning financial requirements, current available and anticipated resources, other sources of funding, from both private and government sources, and past applications for funding, if any.

(v) descriptions of: the past history, if any, of the CASA program to benefit from the funding sought, including such information concerning the program as may be specified by the Chief Administrator; the program's area of service; its staff; its sources of funding; its expenditures; and the number and types of Family Court proceedings in which the program has provided assistance and the results of that assistance; and

(vi) such other information as may be required by the Chief Administrator. The Chief Administrator may, at any time following the filing of an application for funding, request that an applicant or applicants furnish additional information or documentation to support the application.

(c) Review of applications and approval of funding. In reviewing an application for funding pursuant to this section, the Chief Administrator shall consider the following factors, among others, in connection with the CASA program on whose behalf the application is made:

(1) the need for the program in the county or counties to be served;

(2) the structure and scope of the program;

(3) the program's caseload and the level of support for a CASA program or programs within the community to be served;

(4) the cost of operation;

(5) the capacity of the applicant to administer the program;

(6) the extent to which the program complies with the provisions of section 117.2 of this Part; and

(7) any other considerations that may affect the provision of CASA services. An applicant for funding may be rejected if the Chief Adminis-

trator determines that the CASA program on whose behalf the application is made will be unable to comply with any of the requirements set forth in this Part. Nothing herein shall require the Chief Administrator to approve funding for any applicant.

(d) Program Review and Evaluation. The Chief Administrator shall monitor and evaluate each CASA program receiving funds pursuant to this section.

(1) Program Reports. Each CASA program receiving funding pursuant to this section shall provide the Chief Administrator with periodic reports summarizing its activities in a manner prescribed by the Chief Administrator. The reports shall include information as to:

(i) the amount of, and purposes for which, all funds received pursuant to this Part were expended;

(ii) the number and type of appointments by the Family Court and the nature of the assistance provided; and

(iii) any other matters as required by the Chief Administrator.

(2) Access to CASA Program Records. The State Comptroller and Chief Administrator shall be given complete access to inspect the program operations and financial records of any recipient of funding under this section at any time in order to determine whether the CASA program that benefits from such funding is complying with its contract, all court rules and all applicable federal, State and local laws and regulations.

(3) Rescission of Contract. Where the Chief Administrator determines that a CASA program that benefits from funding hereunder is not adequately meeting its responsibilities, is the subject of a bankruptcy or insolvency filing or is in violation of any provision of this Part or of any other rules, regulations or statutes, the Chief Administrator may rescind the contract for such funding forthwith. In other circumstances, the Chief Administrator may rescind the contract for funding upon 30 days' written notice to the program. A CASA program recipient may rescind the contract for funding upon 60 days' written notice to the Chief Administrator.

(e) Records Retention. Each CASA program that receives funding pursuant to this Part shall retain:

(1) all financial records for a minimum of four years after the expiration of the contract entered into with the Unified Court System for such funding pursuant to this Part.

(2) individual case files until the youngest child in the family in the case reaches the age of 18 or, if the child remains in foster care, until the child reaches 21.

(3) a fact sheet or summary of each case from which the program may compile the information required for purposes of program evaluation for a period of six years after termination of such case. No other time requirements for records retention shall apply unless otherwise contracted by the parties, directed by the Family Court or required by statute, rule or regulation.

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PART 205. UNIFORM RULES FOR THE FAMILY COURT

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§205.5. Privacy of Family Court Records. Subject to limitations and procedures set by statute and case law, the following shall be permitted access to the pleadings, legal papers formally filed in a proceeding, findings, decisions and orders and, subject to the provisions of CPLR 8002, transcribed minutes of any hearing held in the proceeding:

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(b) when a child is either a party to, or the child's custody may be affected by the proceeding:

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(5) an authorized employee or volunteer of a Court Appointed Special Advocate program appointed by the Family Court to assist in the child's case in accordance with Part 43 of the Rules of the Chief Judge.

AMENDMENT OF RULE  
Uniform Rules for the Surrogate's Courts

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby add, effective May 1, 2006, a new section 207.63 of the Uniform Rules for the Surrogate's Courts, relating to the Office of the Public Administrator, to read as follows:

§207.63 Annual Report of Public Administrator

(a) Each Surrogate shall request from the public administrator a year-end annual report which, with the participation of the counsel to the public administrator, addresses the following areas: office procedures and record keeping; case management of estates; cash management of estate accounts and financial assets; property management; sale of real and personal property; selection and compensation of outside vendors; and statistical summaries of number of estates under administration, gross value of estates under administration, statutory commissions earned by the public administrator or counsel to the public administrator, legal fees earned by each counsel to the public administrator, and expenditures by the public administrator on vendors, lessors and other service providers other than counsel.

(b) Each Surrogate shall transmit to the Chief Administrator of the Courts the annual report of the public administrator and counsel to the public administrator, together with whatever written commentary thereon the Surrogate deems appropriate and necessary in view of his or her oversight role in connection with the operations and performance of the office of the public administrator and counsel to the public administrator.