

# GENERAL GUIDELINES RELATING TO THE EVALUATION OF REQUESTS FOR COURT COSTS AND FEES

## GENERAL GUIDELINES

1. **Purpose and Scope.** The following Guidelines are hereby promulgated by the Judicial Council to guide the process of submitting and evaluating requests for new court costs and fees or increases in existing court costs and fees pursuant to R.S. 13:62 (Act 202 of the 2003 Regular Legislative Session).

2. **Definitions.** For the purpose and scope of these Guidelines, the following terms shall have the following meanings:

(a) “*Court cost*” means a specific charge or cost, or a range of specific charges or costs, or a specific percentage of an amount of costs, or a limit of an amount of cost that is used to defray the operational costs of courts and the court-related operational costs of law enforcement, clerks of court, district attorneys, the indigent defense system, state and local probation and parole functions, and other court-related functions, and that has been authorized by state law and levied by a court to be collected from a person convicted of, or pleading guilty to, or forfeiting a bond with respect to, certain specified crimes or pre-delinquent and delinquent acts.

(b) “*Court-related operational costs*” mean those operational costs that are in direct support of the pre-adjudicative, adjudicative, and post-adjudicative functions of a court, including but not limited to: training; data sharing; law enforcement service of process; court reporting; pro se assistance; certain treatment programs sponsored or closely affiliated with the courts; bailiff services; short-term detention; probation legal representation; prosecution; legal research; court-related technologies; informal adjudicative programs such as diversion, alternative dispute resolution, restorative justice, pre-trial and such other programs that are either sponsored by or closely affiliated with the courts.

(c) “*Courts*” mean the district courts, the juvenile and family courts, the city, parish, municipal, and traffic courts, the justices of the peace, and the mayor's courts.

(d) “*Fee*” means a charge or cost or a range of specific charges or costs, or a specific percentage of an amount of costs, or a limit of an amount of cost that is used to defray the operational costs of the courts or the court-related operational costs of the clerks of court or other court-related functions, and that has been authorized by state law to be collected from a person either filing a document in any civil or criminal proceeding with the clerk of court, appearing in a civil matter before a court, failing to fulfill a condition of release, or meeting a condition of probation or other court order.

(e) *“The Standing Committee to Evaluate Requests for Court Costs and Fees”, hereinafter referred to as the “Court Cost Committee”, or the “Committee”* means that information-gathering and advisory arm of the Judicial Council created to develop and apply guidelines for evaluating requests for new court costs and fees or increases in existing court costs and fees prior to the submission of such requests to the legislature, and to report the Committee's findings and recommendations to the Judicial Council.

3. **Included Costs and Charges.** For the purposes of these Guidelines, the costs and charges to be reviewed and evaluated by the Judicial Council include court costs and fees as herein defined. These court costs and fees also include any cost or charge for which state legislation is being sought to modify an existing cost or charge currently set exclusively by court rule or local ordinance, and any cost or charge currently authorized by state law as to specific amount, range of amount, or a percentage of an amount, or limit of amount for which new legislation is being sought to eliminate any specificity as to amount and thus to allow the court or other entity to set the rates or amounts.

4. **Excluded Costs and Charges.** For the purposes of these Guidelines, the terms “court cost” and “fee” do not include:

- Fines or other monetary criminal or civil penalties that are authorized by law to be imposed on offenders upon their admission of guilt or upon conviction;
- Court proceeding costs not specified by state law as to amount, range of amount, percentage of amount, or limits of amount but left to a judge to determine and set as a means of defraying in whole or in part the cost of a specific litigation;
- Non-judicial costs and fees not having any direct relationship with a court proceeding that are authorized by law to be assessed and collected by an executive department or agency of government, e.g. fees and costs assessed and collected by health, environmental, general governmental, correctional, and other agencies of the executive branch;
- Asset sales or property forfeitures;
- Costs or charges paid by one governmental body to another whether involving courts or not;
- Court reporter fees and costs that are not specified by law or court rule as to amount, range of amount, or limit of amount but are determined and assessed by a court as part of the court cost of a specific proceeding;
- Fees and court costs enacted by local ordinance and not authorized by state law, except in the case of those fees and court costs enacted by ordinance for which state legislation is being sought to set an amount, or a range of amount, or a percentage of an amount, or a limit of an amount;
- Other Court-related Fees, Costs, and Charges that are not specified by state law as to amount, range of amount, percentage of amount, or limit of amount, except in the case of those court-related and court-specified fees, costs, and charges for which new state legislation is being sought to set an

amount, or a range of amount, or a percentage of an amount, or a limit of an amount.

5. **Eligible Requests.** The Judicial Council of the Supreme Court shall consider any request for an included new court cost or fee or an increase in an existing court cost or fee provided the request is submitted on the application form and in the manner required by the Council and signed by the chief officer of the requesting entity and provided the requesting entity includes with the duly signed form the following financial information:

(1) its previous year's annual financial statement, including balance sheets and income statements; (2) its most recently audited financial statement; (3) its current annual budget; and (4) a separate budget indicating the anticipated revenues and types of expected expenditures resulting from the enactment of your proposal for new or increased fees or court costs. If the requesting organization is submitting the request on behalf of a recipient organization, please submit the above-specified financial information on the recipient organization as well. Please note that the Committee may request additional financial information, only if it deems such information to be appropriate and necessary for the Committee's effective review and analysis of the proposal.

6. **Deadline for Submission of Requests.** In each year, the deadline for the receipt of requests shall be **5:00 p.m. on October 1<sup>st</sup>**.

7. **Assignment of Request to Committee.** Upon receipt of a proper request, the Council shall forward the request to the Court-Cost Committee which shall apply the following analyses:

(a) **Analysis of the Purpose of the Court Cost or Fee.** On the basis of the information supplied in the request forms and from such other information that may be gathered, the Court Cost Committee shall analyze whether the proposed court cost or fee is for an appropriate purpose. Among the appropriate purposes for which court costs or fees may be requested are:

- to support a court or the court system or help defray the court-related operational costs of other agencies;
- to support an activity in which there is a reasonable relationship between the fee or court cost imposed and the costs of the administration of justice.

(b) **Analysis of the Intended Recipient's Finances.** On the basis of the financial information submitted by the requesting entity, the Committee shall analyze the information to determine whether the requesting organization or the recipient organization has the financial means to fund the proposed purpose without the need for a new court cost or fee or an increase in an existing court cost or fee.

(c) **Analysis of the Probable Yield of the Court Cost or Fee.** On the basis of information gathered from the recipients of existing court costs and fees in Louisiana,

the Committee shall analyze and calculate the probable yield of the proposed court cost or fee.

(d) **Analysis of the Incidence of the Court Cost or Fee.** On the basis of information gathered from the requesting entity, the recipients of existing court costs or fees in Louisiana, and data from other states, the Committee, with assistance from its staff, shall analyze and determine the types of persons who are likely to bear the burden of paying the new court cost or fee or the increase in the existing court cost and fee and whether the additional burden from the court cost and fee, when added to the burden of existing court cost and fees, would affect in any significant way access to justice or would be unfair to a class of court users.

(e) **Cost Benefit Analysis.** On the basis of information submitted by each requesting organization, the Committee shall evaluate the costs and benefits of the proposed court cost or fee.

8. **Committee Reporting.** Upon completion of the analyses described above, the Committee shall vote favorably or unfavorably on each request. The Committee shall then present its findings and recommendations, and any withdrawn requests, at the next meeting of the Judicial Council in which the Council is expected to receive and consider the Committee's recommendations. A summary of the report of the Committee shall be provided in the minutes of each meeting of the Council. In the event that a meeting of the Judicial Council is cancelled due to the withdrawal of a request for a new court cost or fee, the Committee shall provide a report on the withdrawal at the next meeting of the Council.

9. **Voting by Ballot.** Members of the Judicial Council may vote on the ballot sheets provided at each meeting for or against a request for a new court cost or fee, or may vote to abstain or to be recused from voting. The results of such balloting shall be read by the secretary and reported as favorably or unfavorably considered. The individual vote of each member, for or against or to abstain or to be recused, shall be recorded in the minutes of the Judicial Council.

10. **Recusal.** Any member of the Committee to Review and Comment on New Court Costs and Fees or any member of the Judicial Council who is a member of the intended recipient for which a new court cost or fee has been requested or who may have a personal, family, or financial interest in the new court cost or fee, shall recuse him-or-herself from voting on the request, and shall note for the record the recusal and the factual basis therefor.

11. **Advocacy and Lobbying.** An advocate for or against a new court cost or fee is encouraged to make his position known to each member of the Committee and the Council in writing. However, the advocate shall not contact any Committee or Council member in person or by phone. Any member of the Committee or the Council who is so contacted shall disclose the contact at all meetings in which the action shall be considered and such disclosure shall be reported in the minutes of the Judicial Council.

12. **Quorum.** A quorum of a majority of members is necessary to vote on all official actions of the Council.

13. **Emergency Situations.** In emergency situations or in other circumstances deemed necessary, the Chair of the Council may, in his discretion, authorize the use of mail-in or electronically transmitted ballots to allow or facilitate voting on matters before the Council.

14. **Chronology of Key Events.** The timetable of the key events of the process of review and comment on new court costs and user fees shall be:

**October 1<sup>st</sup> of each year**      Deadline for Submission of Court Costs Proposals

December - February      Committee Hearing on Proposals and Completion of Review by Committee.

February or March      Judicial Council Meeting.