

## CLIENT PROTECTION FUND

**(a) Purpose.** The purpose of this rule is to create a Client Protection Fund (the Fund), to be maintained and administered as a trust by the Bar, in order to promote public confidence in the administration of justice and the integrity of the legal profession.

**(b) Establishment.** The Fund shall be established and funded through assessments ordered by the Supreme Court to be paid by members and other licensees to the Bar.

(1) The Board of Governors shall act as Trustees for the Fund.

(2) The Board of Governors shall appoint a Client Protection Board, to help administer the Fund pursuant to these rules. The Client Protection Board shall consist of 11 lawyers, LLLTs, or LPOs and two community representatives who are not licensed to practice law, who shall be appointed to serve staggered three-year terms.

(3) Funds accruing and appropriated to the Fund may be used for the purpose of relieving or mitigating a pecuniary loss sustained by any person by reason of the dishonesty of, or failure to account for money or property entrusted to, any lawyer, LLLT, or LPO of the Bar as a result of or directly related to the lawyer's, LLLT's, or LPO's practice of law, or while acting as a fiduciary in a matter directly related to the lawyer, LLLT's, or LPO's practice of law. Such funds may also, through the Fund, be used to relieve or mitigate like losses sustained by persons by reason of similar acts of an individual who was at one time admitted to the practice of law in Washington as a lawyer, LLLT, or LPO but who was at the time of the act complained of under a court ordered suspension.

(4) The Fund shall not be used for the purpose of relieving any pecuniary loss resulting from a lawyer's, LLLT's, or LPO's negligent performance of services or for acts performed after a lawyer, LLLT, or LPO is disbarred or revoked.

(5) Payments from the Fund shall be considered gifts to the recipients and shall not be considered entitlements.

**(c) Funding.** The Supreme Court may by order provide for funding by assessment of lawyers, LLLTs, and LPOs in amounts determined by the court upon the recommendation of the Board of Governors.

**(d) Enforcement.** Failure to pay any fee assessed by the Supreme Court in the manner and by date specified by the Bar shall be a cause for suspension from practice until payment has been made.

**(e) Restitution.** A lawyer, LLLT, or LPO whose conduct results in payment to an applicant shall be liable to the Fund for restitution.

(1) A lawyer, LLLT, or LPO on Active status must pay restitution to the Fund in full within 30 days of final payment by the Fund to an applicant unless the lawyer, LLLT, or LPO enters into a periodic payment plan with Bar counsel assigned to the Client Protection Board.

(2) Lawyers, LLLTs, or LPOs on disciplinary or administrative suspension; disbarred or revoked lawyers, LLLTs, or LPOs; and lawyers, LLLTs, or LPOs on any status other than disability inactive must pay restitution to the Fund in full prior to returning to Active status, unless the attorney enters into a periodic payment plan with Bar counsel assigned to the Client Protection Board.

(3) A lawyer, LLLT, or LPO who returns from disability inactive status as to whom an award has been made shall be required to pay restitution if and as provided in Procedural

(4) Restitution not paid within 30 days of final payment by the Fund to an applicant shall accrue interest at the maximum rate permitted under RCW 19.52.050.

(5) Bar counsel assigned to the Client Protection Board may, in the bar counsel's sole discretion, enter into an agreement with a lawyer, LLLT, or LPO for a reasonable periodic payment plan if the lawyer, LLLT, or LPO demonstrates in writing the present inability to pay assessed costs and expenses.

(A) Any payment plan entered into under this rule must provide for interest at the maximum rate permitted under RCW 19.52.050.

(B) A lawyer, LLLT, or LPO may ask the Client Protection Board to review an adverse determination by Bar counsel regarding specific conditions for a periodic payment plan. The Chair of the Client Protection Board directs the procedure for Client Protection Board review, and the Client Protection Board's decision is not subject to further review.

(6) A lawyer's, LLLT's, or LPO's failure to comply with an approved periodic payment plan or to otherwise pay restitution due under this Rule may be grounds for denial of status change or for discipline.

**(f) Administration.** The Bar shall maintain and administer the Fund in a manner consistent with these rules and Regulations.

**(g) Subpoenas.** A lawyer member of the Client Protection Board, or Bar Counsel assigned to the Client Protection Board, shall have the power to issue subpoenas to compel the attendance of the lawyer, LLLT, or LPO being investigated or of a witness, or the production of books, or documents, or other evidence, at the taking of a deposition. A subpoena issued pursuant to this rule shall indicate on its face that the subpoena is issued in connection with an investigation under this rule. Subpoenas shall be served in the same manner as in civil cases in the superior court.

**(h) Reports.** The Bar shall file with the Supreme Court a full report on the activities and finances of the Fund at least annually and may make other reports to the court as necessary.

**(i) Communications to the Bar.** Communications to the Bar, Board of Governors (Trustees), Client Protection Board, Bar staff, or any other individual acting under the authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any applicant or other person providing information.

[Adopted effective February 12, 1965; Amended effective September 1, 1994; October 1, 2002; January 2, 2008; January 13, 2009; December 1, 2009; January 1, 2014; September 1, 2017; January 1, 2023.]