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EXPERT FEE SCHEDULE MEMORANDUM

To: Indigent Defense Experts, Indigent Defense Attorneys and Alabama Judiciary
 Re: Expert Fees (Trial, Appellate and Post-Conviction Cases)
 From: Office of Indigent Defense Services, Christopher Roberts, Director *CR*
 Authority: Alabama Code Section 41-4-322
 Issue Date: October 7, 2019
 Effective Date: January 1, 2020

Pursuant to Alabama Code Section 15-12-21(e), fees and expenses of all experts, investigators, and others rendering indigent defense services to be used by counsel for an indigent defendant shall be approved in advance by the trial court as necessary for the indigent defense services and as a reasonable cost or expense. A copy of the authorization must be submitted to the Office of Indigent Defense Services with the fee declaration. No fee or expenses shall be paid for work performed prior to authorization by the trial court. In securing services of an expert, preference should be given to in-state providers when available.

I. STANDARDIZED EXPERT RATES

A. Definitions

- Time In Court means time testifying or observing if asked to observe by the attorney requesting the expert’s services. It includes time the expert is sitting in court waiting to testify when the expert has been called but not yet sworn in.
- Time Out of Court means time spent reviewing files, documents, or evidence; evaluating the defendant; conducting tests; investigating; preparing for testimony; meeting with the attorney; or advising the defense on the case.

B. Set Compensation Rates

TYPE OF EXPERT	HOURLY RATE
Private Investigator	\$70
Mitigation Specialist	\$70*
Foreign Language Interpreters	At rate established by AOC**
Attorney Serving as Expert	Same rate as appointed counsel in the case***

**See rates allowed by degree in following section.*

***Foreign Language Interpreters must be registered with the Administrative Office of Courts pursuant to its Foreign Language Interpreter Program. Details for registration may be found at <http://www.alacourt.gov/Interpreter-Overview.aspx>. The appointment of interpreters must be in compliance with Alabama Code Sections 15-1-3 (foreign language) and/or 12-21-131 (persons with defects in speech or hearing).*

****An attorney serving as an expert may exceed the standard rate as allowed by degree in the following section or if the attorney submits verification of specialized training in the area of expertise (i.e., mitigation certification and/or completion of specific, continuing education training in the area of expertise). Counsel should secure verification of such training and/or certification (certificate, transcript, attendance letter from program provider, etc.) and include that with his/her motion requesting the extraordinary expense.*

C. Base Compensation Rates by Education Level and Type of Expert

- The hourly rates and policies outlined in the remainder of this section apply to all expert authorizations that are dated on or after January 1, 2020. Hourly rates for services or travel that were specified on expert authorizations before January 1, 2020 will continue to be honored.
- For any expert types that are not specified in I.B. above, or mitigation specialists who by degree qualify for a rate listed below, the following base compensation rates apply for both time in court and time out of court as defined above. The following rates are substituted for the base rate listed in I.B should the expert qualify based on education.

Highest Education Level or Field of Expertise	Base Hourly Rate
High School or Equivalent	\$30
Associate's Degree	\$50
Bachelor's Degree	\$70
Master's Degree	\$110
Crime Scene and Related Experts (e.g., Accident Reconstruction, Arson, Ballistics, Blood Spatter, Fingerprint, Handwriting, Use of Force)	\$200
CPA/Financial Expert	\$100
Information Technology Experts (e.g., Digital Forensics)	\$150
Pharmacy/PharmD	\$175
Ph.D/Psy.D/Other Licensed Doctor (e.g., Doctor of Veterinary Medicine, Doctor of Nursing, Doctor of Dental Medicine)	\$200
Medical Doctor	\$275
MD with Specialty (e.g., Psychiatrist, Pathologist)	\$300

- For experts who fall into multiple categories above, the highest applicable hourly rate shall apply.

- In addition to the base compensation rates set forth immediately above, experts covered by this section are entitled to an additional \$10 per hour if they have more than 10 years of experience in the field relevant to the expert services or testimony, or an additional \$20 per hour if they have more than 20 years of experience in the field relevant to the expert services or testimony.

D. Travel and Wait Time

- For experts with set compensation rates, i.e., those covered by Section I.B. or I.C., as applicable, time spent traveling and waiting in court shall be compensated at the same rate as time in court and time out of court.

E. Deviations from the Standardized Hourly Rates

- In unusual and extraordinary circumstances, the trial court may grant deviations from the standardized base compensation rates listed above when the requesting attorney demonstrates that such deviation is necessary and appropriate based on case-specific needs. Upon submission of the expert's fee declaration, a copy of the order, including the grounds supporting deviation, shall be submitted to OIDS. Possible bases for deviation include, but are not limited to the following:

- Deviations may be granted if the requested expert services are in a new, emerging or novel area and there are limited number of experts in the field.
- Deviations may be granted if the requested expert services are so unique that there are a limited number of available and qualified experts.
- Deviations may be granted based on other exceptional circumstances that justify a deviation from the standard rates. For example, counsel needs the services of a specific type of expert and has contacted five or more experts in that field and only one of the contacted experts is willing and available to provide the needed services at the needed time at the standardized rate. (The example is provided for illustrative purposes and does not mandate the consultation with five or more experts before seeking a deviation.)

II. EXPERT SERVICES

A. Prior Authorization Required

- Pursuant to Alabama Code Section 15-12-21(e), fees and expenses of all experts, investigators, and others rendering indigent defense services to be used by counsel for an indigent defendant shall be approved in advance by the trial court as necessary for the indigent defense services and as a reasonable cost or expense. The Motion requesting such funding should be accompanied by the expert's curriculum vitae, specify the expert's hourly rate and state a maximum requested fee. The order approving the extraordinary expense should also specify the hourly rate and maximum amount approved. No fees or expenses shall be paid for work performed prior to authorization by the trial court.

B. Reimbursable Expenses

1. Travel

The traveler is responsible for selecting the mode of transportation, preferably the least costly to the State. The traveler is entitled to reimbursement for actual and necessary expenses incurred based on the mode. Below are policies and procedures regarding transportation.

- a. Commercial Airline Transportation: Economy fare airline transportation may be utilized for long distance trips. Baggage fees will be reimbursed. Itemized receipts are required.
- b. Mileage on Privately Owned Vehicles: Mileage will be reimbursed at the applicable rate, in effect at the time of travel, as established by the Internal Revenue Code in lieu of actual expenses for transportation. Personal vehicles may be utilized for long distance trips only if the mileage cost for the trip is less than the cost of a round-trip, economy, commercial airline fare. Exemptions for extraordinary circumstances may be authorized by OIDS. Authorization must be obtained prior to travel.
- c. Other Transportation: If required for out-of-state travel, rental of a standard, compact vehicle and gasoline purchases for the rental vehicle at the destination are reimbursable with itemized receipts. Travel and/or rental insurance will not be reimbursed. Actual expenses for public transportation (shuttle, UBER, taxi, etc.) including reasonable tips, are reimbursable. Itemized receipts are required.
- d. Other: Any other travel-related expenses (e.g., parking, tolls, etc.) must be supported by receipts or, in appropriate circumstances, documentation.
- e. Lodging/Meals and Incidental Expenses (M&IE): Travel requiring an overnight stay will be reimbursed for actual expenses up to the applicable CONUS rate for the location or the standard CONUS rate for lodging, meals, and incidental expenses. On travel days (first and last day of the trip), the expert will be entitled to 75% of the daily M&IE allowance. Receipts are not required for M&IE, however, receipts are required for lodging. For travel greater than 12 hours duration and not requiring an overnight stay, the traveler will be entitled to 75% of the daily M&IE allowance. CONUS rates can be found at <https://www.gsa.gov/travel/plan-book/per-diem-rates> . The M&IE allowance includes tips related to meals, lodging and baggage.
- f. These same travel rules apply to international travel. Lodging and M&IE rates for international travel can be found at https://aoprals.state.gov/Web920/per_diem.asp.

2. Long-Distance Telephone Calls

The actual costs of case-related, long-distance telephone calls will be reimbursed only if supporting itemized phone bills are submitted.

3. Photocopies/Single-Source Record Production

- a. Copies: In-house copying costs for black and white copies are reimbursable at a rate not to exceed \$0.15 per page. The applicant must indicate the number of copies prepared. The actual cost of out-sourced copies is reimbursable with a receipt or invoice indicating the number of copies prepared and the amount paid per page, at a rate not to exceed \$0.15 per page. Color copies for trial exhibits, etc. will be reimbursed at \$0.30 per page for in-house and actual cost for out-sourced copies.
- b. Single-Source Record Production
Copies of records that are only available from one source, such as records that must be obtained from a hospital or a state or county agency, will be reimbursed at the rate charged by the provider as long as the receipt is attached.

3. CDs/DVDs/Audiotapes/External Hard Drives

The cost of blank CDs, DVDs or audiotapes is reimbursable at a rate not to exceed \$1.00 each. The actual cost of commercial copying of material from one digital media to another is reimbursable with a receipt.

Although hard drives such as jump drives are reusable and are therefore generally treated as non-reimbursable overhead expenses, in cases in which the cost of the external hard drive does not exceed the cost of the CDs or DVDs that would be needed to copy electronic materials, OIDS will reimburse an expert for the cost of the external hard drive if a receipt is provided. When seeking reimbursement for an external hard drive, the expert must indicate the approximate number of CDs or DVDs that would have been needed to copy the electronic materials.

4. Computerized Research

The actual case-related costs of computerized legal research (e.g., Alacourt, DMV, DOC, etc.) will be reimbursed only if itemized receipts are provided. If actual costs are not incurred, experts will be compensated for their time according to their hourly rate, but will not be compensated any amount per search.

5. Other Expenses

- a. Miscellaneous: For all other expenses (e.g., postage, film development, etc.), an applicant must submit receipts or supporting documentation. Under no circumstances will the purchase of equipment or property be reimbursed.

- b. Overhead: Normal overhead expenses such as case notebooks, paper, push pins, etc. will not be reimbursed.

C. Interim and Final Fees

- OIDS will only process interim expert fee requests in non-capital cases when approved by the Director subject to Alabama Code Section 15-12-21(d)(6). Said requests should be submitted to OIDS at oids@oids.alabama.gov and include documentation supporting the request for interim payment.
- All expert and investigatory fee declarations must be submitted in compliance with this Expert Fee Schedule Memorandum and Administrative Rule 355-9-1-.07 (a copy of which is attached at the end of this memo). Absent a final disposition, the initial expert or investigatory fee declaration shall be submitted no earlier than six (6) months after work begins and may be billed every six months thereafter. All expert fee declarations should indicate whether the request is for interim or final payment.
- All expert and investigatory fee declarations must be fully and accurately itemized pursuant to Alabama Code Section 41-4-54. The invoice should detail the date work was performed, the work done, the time required for such work, the hourly rate being utilized and the total claim for each day worked.