

RULES OF OPERATION

Article 1. Purpose

The purpose of GLAD's Lawyer Referral Service (hereafter LRS) is:

- A. to act as conduit by which persons and organizations in New England who have legal problems related to their actual or perceived sexual orientation and/or their HIV status are provided with referrals to knowledgeable attorneys and legal services with a special interest, educational background or experience in the areas of sexual orientation-related legal problems and/or HIV-related legal problems;
- B. to seek to establish procedures whereby persons and organizations within New England who have such legal problems may obtain referrals for legal representation within their means to pay;
- C. to make available to persons and organizations in the gay, lesbian, bisexual and HIV communities referrals to attorneys for matters not necessarily related to sexual orientation or HIV status; and
- D. to assist attorneys who have demonstrated interest, educational background or experience in sexual orientation-related legal problems and/or HIV-related legal problems to obtain clients through referrals.

Article 2. Organization

- A. These articles are called "Gay & Lesbian Advocates & Defenders Lawyer Referral Service Rules of Operation," hereinafter called "Rules." These Rules are intended to comply generally with the voluntary American Bar Association Standards for: Lawyer Referral Services.
- B. As used herein, the "Lawyer Referral Committee" means the committee designated to administer the Lawyer Referral Service (hereafter "Committee"); the term, "caller" or "client" means a potential client making application for legal services to the Lawyer Referral Service (hereafter "LRS"); the term "Service" means the LRS of Gay & Lesbian Advocates & Defenders, d/b/a Park Square Advocates (hereafter GLAD).
- C. The LRS, or Service, is administered by GLAD staff in accordance with these Rules. The administration and operation of the LRS is overseen by the Committee. The Committee is appointed by the Executive Director of GLAD and is comprised of GLAD staff, including but not limited to the Executive Director, the Civil Rights Director, the AIDS Law Project Director and the Public Affairs and Education Director. GLAD's Executive Director chairs the Committee. The Committee has the power and authority to make all decisions regarding the management and operations of the Service subject to GLAD's Executive Director's review and approval.
- D. The Committee will, from time to time and as necessary, solicit the advice and suggestions of LRS attorney members to improve the operation of the LRS or to resolve difficulties in its operation.

- E. The LRS is operated by GLAD employees and is staffed by GLAD employees and trained volunteers. The GLAD staff of the LRS is supervised by the Committee and the Executive Director of GLAD. The staff makes periodic reports as requested by the Committee or Executive Director. Such reports will show the number of callers to this service, the types of legal matters involved, and other such information as requested by the Committee. The LRS staff maintains a list of lawyers eligible to receive such referrals, and referrals are made in rotation in accordance with Article 3.
- F. The staff seeks written client feedback from a sampling of callers using the LRS. The staff makes available to the Committee samples of written caller feedback upon request.

Article 3. Attorney Listings

- A. The Committee maintains a listing or such listings of attorneys, including "Special Area of Practice" listings, to serve the needs of the callers. The general listing is comprised of LRS attorney members who regularly maintain an office and practice in the New England area and who have demonstrated interest, educational background and/or experience in the area of sexual orientation-related and/or HIV-related legal problems.
- B. Membership in a special area of practice listing is limited to LRS attorneys who meet experience, special education or training qualifications in the respective special practice areas.
- C. Each LRS attorney may select up to 10 special area of practice listings provided that he or she meets the qualifications for membership for each panel selected.
- D. Qualification for membership in the LRS and special area of practice listings is determined by the Committee. In general, the Committee relies upon the certification of the panel member that he or she meets the qualifications for panel membership. However, for practice areas requiring special experience, education or training, the Committee may solicit information from the panel member to evaluate his or her special experience, education, or training. The Committee has the final say in determining the qualifications for LRS membership and in reviewing the qualifications of a member to remain on or to be removed from the LRS or any special area of practice listing.
- E. Any LRS attorney may appeal his or her denial from participation on a special area of practice panel pursuant to Article 5, section H below.
- F. The LRS will maintain a listing of LRS member attorneys who are willing to accept *pro bono* referrals. All LRS members are encouraged to accept *pro bono* referrals and may specify the number of such referrals they are willing to accept each year.
- G. The LRS will maintain a listing of LRS member attorneys who are willing to accept contingent fee matters. The list will specify the types of matters for which the LRS member is willing to accept contingent fee payment.
- H. LRS member attorneys are required to pay an annual registration fee to join the LRS. This fee entitles member attorneys to be listed in the general listing and in up to 10 special area of practice listings for which they qualify and choose to join. Registration fees are established annually by the Committee and are set forth in the GLAD Lawyer Referral Service Agreement and Declaration. **The annual registration fee has been indefinitely suspended—there is currently no registration fee to join the LRS.**
- I. LRS member attorneys are required to make a referral fee payment of 10% of their collected net fee (i.e., after deduction of expenses and disbursements) in matters generating fees between \$1,000 and \$3,000 plus 15% of the portion of the net collected fee over \$3,000. LRS member attorneys are encouraged, but not required, to pay referral fees on matters generating less than \$1,000, **unless the rules of the bar association in the state where the attorney practices does not permit payment of this referral fee.**

- J. In rare instances, LRS members who accept a significant number of *pro bono* cases referred by the LRS, or members who contribute a significant amount of volunteer time to GLAD, may have their registration fee or referral fees (as described in Article 3, sections H and I) waived at the discretion of the Committee. Any member whom the Committee selects to receive any such waiver of fees will be notified in writing. **Currently, the registration fee is being waived for ALL LRS members.**
- K. LRS member attorneys are required to inform any staff of their firm or practice who may be receiving calls from LRS clients about the LRS and its affiliation with Gay & Lesbian Advocates & Defenders so that such staff will be prepared to expect calls from LRS clients and will be prepared to track and report fees generated from the referrals. If deemed necessary, LRS member attorneys will insure that staff who may receive calls from LRS clients are aware of any special concerns involved in responding to clients who may be gay, lesbian, bisexual, and/or persons living with HIV or AIDS. The LRS will provide to its member attorneys an informational sheet to be distributed to their staff.

Article 4. Referral Procedures

- A. Referrals are made to members of the panel in alphabetical rotation according to geographic location and area of practice. Each caller will be given three referrals whenever possible. An attorney panel member will not be moved to the back of the rotation until three LRS callers have received his or her name as a referral.
- B. At the discretion of GLAD staff, exceptions may be made to the rotation in order to respond to special circumstances of the client, including the type or degree of difficulty of the legal problem(s) presented, geographic convenience, language or special needs. Such exceptions are not made by LRS volunteers without the knowledge and approval of LRS staff or a member of the Committee. No referral is made on the basis of sex, sexual orientation, age, religion, national origin, disability, or personal relationship with LRS staff or Committee members.
- C. While the LRS will do everything possible to insure that referrals are evenly distributed throughout each panel listing, the LRS cannot guarantee that each panel member will receive the same number of referrals, primarily because of variations in the number of panel members among geographic regions.
- D. LRS staff and volunteers will attempt to determine what special area of practice is appropriate to the caller's needs. Callers will be referred to LRS attorneys who have the special area of practice listing which appears to best suit the caller's needs. If the LRS staff cannot determine a need for a referral to an attorney listed in a special area of practice, or if the caller requests a referral for a general listing, the caller will be referred to attorneys in the general listing.
- E. The LRS cannot guarantee an LRS member attorney that each caller referred to him or her will necessarily be able to pay his or her full rate.
 - 1. The LRS staff and volunteers make clear to callers that LRS member attorneys (other than those designated as *pro bono* attorneys) will require payment for their services.
 - 2. While the LRS encourages LRS member attorneys to serve on the LRS *pro bono* listing, LRS attorneys are under no obligation to accept *pro bono*, reduced fee, or contingency cases referred by the LRS unless they have explicitly agreed to do so during the LRS application process and are members of the *pro bono* or contingent fee listings.
 - 3. Any caller rejected by an LRS member attorney as a client solely because of his or her inability to pay should be referred either to an appropriate legal services agency or back to the LRS for additional referrals.

4. In the event that a *pro bono* referral is unavailable and the caller is unable to pay for an attorney, the LRS staff will attempt to refer the caller to an appropriate legal service agency.
 5. Callers who indicate that they cannot pay for legal representation but have a legal issue appropriate for contingent fee representation will be referred to the first three LRS member attorneys in the rotation who have indicated that they will consider contingent fee representation and who are listed in the pertinent special area of practice panel.
- F. The LRS cannot guarantee that any or all callers referred to LRS member attorneys will have viable legal claims.
- G. Each attorney LRS member is encouraged to contact the LRS for referrals to another LRS member if he or she wishes to consult with a panel member with expertise in any of the various special practice area listings.
- H. Attorney LRS members who also volunteer as LRS staff cannot under any circumstances refer matters to themselves, even when their name is up in the rotation. Any such volunteer must refer to the next LRS member in the rotation. The volunteer LRS member does not lose his or her place in the rotation, however. No more than half of the LRS volunteers at any given time may be attorney LRS members.
- I. If, for any reason, an LRS attorney member declines to represent a client referred by the LRS, he or she must refer the client back to the LRS. The LRS attorney may refer the client to another LRS panel member within his or her own firm; however, he or she must notify the LRS before making the referral.
- L. LRS staff and volunteers will notify each and every caller receiving a referral to an LRS member attorney, except those seeking *pro bono* representation, that the LRS receives referral fees for matters generating \$1,000 or more, **unless the rules of the bar association in the state where the attorney practices does not permit payment of this referral fee.**
- J.

Article 5. Administration

- A. The Committee meets at least quarterly and reviews operating records kept by the LRS. Based on its review, the Committee makes suggestions as to alterations in the operation of the service it deems necessary, subject to the approval of GLAD's Executive Director.
- B. The LRS staff maintains records of operations, including the following information:
1. The name and address and pertinent qualifications of each LRS member (including proof of malpractice insurance or bond) as set forth in the panel member's application for membership to the LRS and any other materials submitted to the LRS;
 2. The number and types of matters referred to each LRS member;
 3. A record of payment of the LRS members' annual membership fee and remittance of referral fees, if any; and
 4. The name, address and phone number of each caller, and the type of matter presented by each caller, unless the caller affirmatively declined to give such complete information. (This information is considered confidential attorney-client privileged information and is not disclosed to any person – other than LRS Committee members, LRS staff or volunteers, GLAD staff, or the attorney to whom a referral was made – without the caller's express permission.)

- C. Any member licensed to practice in one of the New England states and who regularly practices and maintains an office in the New England area may apply to be a member of the LRS panel for that New England state by completing and signing the application and registration form(s) to be provided by the LRS staff, paying the annual registration and membership fee, and completing all other requirements for membership. The term of LRS membership is for one year.
- D. Each LRS attorney must keep a record of the name of each client referred by the LRS, the general nature of the matter referred, date the referral was received, fees generated by the matter and the disposition of the matter. The LRS attorney must report such information to the Service at least annually or upon special request, even after the termination of LRS membership. The LRS will provide forms for tracking this information.
- E. No attorney will become a member of the LRS panel unless or until s/he warrants that:
1. s/he has read and signed the LRS Agreement and Declaration;
 2. s/he has completed all the requirements for application, including submitting application forms and registration fees (**currently the registration fees are waived for ALL members**);
 3. s/he is licensed to practice in the New England state(s) where s/he seeks referrals;
 4. s/he maintains an office and is actively engaged in the practice of law in each of the New England states where s/he is seeking referrals;
 5. s/he has disclosed with his or her application or Agreement and Declaration any liability determinations or settlements of suits for malpractice; sanctions by a State Bar, Board of Bar Overseers, or like organization; or suspension from practice or disbarment from the Bar of any state;
 6. s/he has a policy of error and omissions malpractice insurance in the amount determined by the LRS, or has posted a bond in that amount, and has forwarded to the LRS proof of such coverage or bond upon request;
 7. s/he does waive any and all claims of liability against GLAD, Park Square Advocates, the AIDS Law Project, and the LRS and agrees to indemnify and hold harmless GLAD, Park Square Advocates, the AIDS Law Project and its members and Committee, Executive Director, Board of Directors, employees, volunteers, and their agents from any and all claims, demands, liability or loss which may arise or be incurred as a result of the operation of the LRS, referrals of clients to him or her through the LRS, or the use of information contained in the registration and application form which may be furnished to callers in the operation of the LRS.
- F. Any panel member may be suspended from the LRS or any special area of practice listing or listings by a majority vote of the Committee if he or she is formally convicted of a violation of the Code of Professional Responsibility by the State Bar, Board of Bar Overseers or like organization in any state in which the member practices, or fails to handle legal matters with reasonable professional competence and diligence, or excessively charges referred callers, or falsifies any material statements made to qualify for any panel or in any required report, or for other cause, or for failure to do any of the following:
1. Pay annual registration fee within 30 days of receipt of notice to pay (**currenty this fee is being waived for ALL LRS members**);
 2. Pay percentage of client fees as described in Article 3, section I within 30 days of receipt of such fees, **unless the rules of the bar association in the state where the attorney practices does not permit payment of this referral fee**;

3. Submit all required reports of fees received in referred matters as described in Article 5, section D, **unless the rules of the bar association in the state where the attorney practices does not permit payment of this referral fee**, or;
 4. Comply with the Rules of the LRS.
- G. Upon a written directive of the Committee or the Executive Director of GLAD, the LRS staff shall suspend any person who violates any provision of sections E or F of this Article.
1. Any person who is so suspended will be notified of such action by the LRS staff.
 2. Upon such notice any member may within thirty days submit in writing to the LRS staff a statement regarding why he or she should be reinstated or why s/he believes his or her suspension from the LRS was unfounded.
 3. The Executive Director will review that statement, will investigate the matter and notify the LRS member of his or her final decision regarding the matter.
- H. Upon any denial of application for membership to the LRS or any special area of practice listing by the Committee, the applicant is entitled to the same rights of review upon suspension as set forth above in Section G.
- I. Any attorney member of the LRS with a complaint about the operation or staff of the LRS shall notify the LRS staff in writing.
1. The LRS staff will investigate all complaints and work to resolve any substantiated complaint promptly, notifying the attorney member what action, if any, has been or will be taken to remedy the situation.
 2. If the LRS staff is unable to resolve the complaint to the attorney member's satisfaction, s/he may submit his or her complaint to the Executive Director of GLAD. The Executive Director will investigate and review the matter. The Executive Director will notify the attorney member of his or her decision.
 3. If the complaint is against the LRS staff, the complainant may notify in writing any member of the Committee or the Executive Director.
 4. If the complaint is submitted to the Committee because the complaint is against an LRS staff member, the Committee will investigate the complaint and work to resolve any substantiated complaint, notifying the attorney member what action, if any, will be taken to remedy the situation.
- J. Any caller to the LRS with a complaint about the LRS or an attorney panel member of the LRS may notify the LRS staff in writing. If the complaint is against the LRS staff, the complainant may notify in writing any member of the Committee.
1. If the complaint is against a panel member attorney, the LRS staff will, with the caller's permission, contact the member attorney and inform him or her of the complaint.
 2. The LRS staff will investigate all complaints and work to resolve any substantiated complaint, notifying the complainant what action, if any, has been or will be taken to remedy the situation. If the complaint is found to be unsubstantiated, the LRS staff will notify the complainant specifying the reasons for its finding.
 3. If the LRS staff is unable to resolve the complaint to the complainant's satisfaction, or if the complainant disagrees with the LRS staff finding that a complaint is unsubstantiated, the complainant may appeal to the Executive Director. The Executive Director will

investigate and review the matter, notifying the complainant what action, if any, has been or will be taken to remedy the situation. A finding of the Executive Director of GLAD is final.

- K. The LRS expressly reserves the right to decline to make the LRS available at any time to any person.

Article 6. Publicity

- A. The LRS will maintain an active publicity program through communications media, public speaking by LRS and GLAD staff, GLAD publications, and outreach mailings in the general area served, advertising to the public the existence and purpose of the LRS and other GLAD services. The LRS will also inform social service and legal services programs in the area served of the existence and purpose of the LRS and other GLAD services.
- B. The form and content of all publicity will be controlled by the Committee and the Executive Director and will identify GLAD as to the sponsor of the LRS.
- C. No publicity about the LRS shall identify the individual attorneys participating in it; however, this does not prohibit a participating attorney from acting as a spokesperson for the LRS if authorized by the Committee.

Article 7. Adoption and Amendment

- A. These Rules shall be reviewed by the Board of Directors of GLAD and approved by the Committee and the Executive Director of GLAD.
- B. These Rules may be amended or repealed by the Committee and the Executive Director of GLAD. Any such amendments or repeal must first be reviewed by the Board of Directors of GLAD.