

TO: ALL COUNTY PERSONNEL
FROM: VERDENIA BAKER
COUNTY ADMINISTRATOR
PREPARED BY: COUNTY ATTORNEY
SUBJECT: REIMBURSEMENT OF ATTORNEY'S FEES AND COSTS
IN DEFENDING ETHICS COMPLAINTS
PPM#: CW-F-057

ISSUE DATE
September 25, 2015

EFFECTIVE DATE
September 25, 2015

PURPOSE:

To establish a policy whereby the Board of County Commissioners may reimburse present and former County public officers and their employees and agents for reasonable attorney's fees and costs incurred in successfully defending or prevailing in actions concerning the State Code of Ethics and the Palm Beach County Code of Ethics.

UPDATES:

Future updates to this PPM are the responsibility of the County Attorney.

POLICY:

It is the policy of the Board of County Commissioners to have a method in place for processing requests for reimbursement of attorney's fees and costs expended in successfully defending ethics complaints. This policy applies to present and former County Commissioners, their employees and agents, and Board appointees.

PROCEDURE:

Section 1. Definitions

- A. Reasonable Attorney's Fees** -- shall mean fees earned by an attorney or attorneys licensed to practice law in the State of Florida, based on the customary hourly rate charged in Palm Beach County Florida, for similar work performed by private non-appointed attorneys within the County, but in no event to exceed \$275 per hour.

- B. Successfully Defend or Prevail** -- shall mean the dismissal, the finding of not guilty, or a verdict in favor of the persons covered herein at the close of all judicial, administrative and appellate proceedings.

Section 2. Reimbursement of Fees and Costs

Subject to Section 6, the Board of County Commissioners of Palm Beach County may, pursuant to the procedures set forth herein, reimburse present and former County Commissioners, present and former County employees and agents, including appointees of the Board, for the reasonable attorneys fees and costs that such persons have incurred after successfully defending or prevailing in actions concerning the State Code of Ethics, chapter 112, part III, Florida Statutes, or the Palm Beach County Code of Ethics, as either may be amended from time to time, provided that such actions arose out of and in connection with their scope of County employment or County function and while serving a public purpose. The decision to make such payment shall be delegated to the County Attorney. The decision to make payment shall be subject to final approval by the Board of County Commissioners and appropriate budget allocation.

Section 3. Procedure

Any person who believes that he or she is entitled to payment for reasonable attorney's fees and costs pursuant to the provisions of this policy shall first notify the County through its County Attorney in writing, as soon as possible after retaining private counsel. Notification shall include the reason for retention of the private attorney and description of the fee agreement. Thereafter, should fees and costs exceed \$10,000, the retained attorney shall immediately notify the County Attorney in writing that the threshold has been exceeded and establish good cause therefore.

At the conclusion of the matter, the person requesting reimbursement shall file a written request for such fees or costs with the County Attorney. This request shall set forth the following information:

- A. The name and the current address of the person making the request;
- B. A description of the entity that conducted the investigation or proceeding;
- C. Case number or file number;
- D. A description of each count, charge, or allegation made or investigated;
- E. The date(s) that the incidents are alleged to have occurred;
- F. The person's office or position of employment with the County on the dates described in paragraph E above;
- G. The reasons why such person believes that the request meets the criteria set forth in this policy, and reasons why his or her fees and costs should be reimbursed by the County;
- H. The name, address and telephone number of the attorney or attorneys who represented such person against the counts, charges or allegations described in paragraph D above;
- I. A description of the fee arrangement or agreement between the person and his or

- her attorney, the amount of attorney's fees and costs paid for defense against the counts, charges, or allegations described in paragraph D above; and
- J. Such other information as the Board of County Commissioners or the County Attorney's office may reasonably require.

Section 4. Notice and Recommendation


The County Attorney shall advise the Board of County Commissioners of receipt of written request as set forth in Section 3 above, and place the matter on a BCC agenda within a reasonable time. The County Attorney may recommend payment of reasonable attorney's fees directly from the attorney's invoice for costs incurred in successfully defending or prevailing in the matter, provided all provisions of this policy have been met.

Section 5. Discipline and Termination Proceedings

Notwithstanding anything to the contrary stated or implied herein, this policy does not address or pertain to employee discipline or termination proceedings. In the event such discipline or termination proceedings occur concurrently with the issues or proceedings described above, such discipline or termination proceedings shall not affect the application of this policy to the above described non-discipline or non-termination issues or proceedings.

Section 6.

Notwithstanding anything to the contrary stated or implied herein, this policy is in addition to and not exclusive of all common law rights of public officials and employees to legal representation at the public expense for litigation arising out of the performance of their official duties while serving a public purpose.



VERDENIA BAKER
COUNTY ADMINISTRATOR

Supersession History:

1. PPM# CW-F-057, dated 3/7/1995
2. PPM# CW-F-057, dated 9/10/2010