

# CAFA Appointment List Packet for CPS Cases

[Updated 10/23/2018-DJO, LRS]

## Introduction to CAFA Appointment List

Occasionally, the Travis County Civil Courts are in need of attorneys to appoint to indigent parents or children in civil Child Protective Services (CPS) cases. To facilitate the appointment of qualified attorneys in accordance with strict statutory deadlines, the Travis County Judges rely on a list of attorneys who agree to automatically accept ANY CPS case for ANY client at ANY time. This list (“Court-Appointed Family Attorney” or “CAFA” List) is maintained by the Lawyer Referral Service of Central Texas (LRS) in conjunction with the Travis County District Judges’ Office (DJO).

**PLEASE NOTE:** Child support contempt cases brought through the Domestic Relations Office (DRO) or Office of the Attorney General (OAG) are NO LONGER assigned through the CAFA List or subject to the CAFA Application Process or the terms of the CAFA packet. Any attorney who desires to receive appointments in AG/DRO cases may obtain a separate application for this purpose on the website of the Travis County Civil District Courts or at the District Judges’ Office.

There is a one-time, initial minimum requirement of 30 hours of CPS-related Continuing Legal Education (CLE) for all attorneys to be added to the CAFA list. Before an attorney may be placed on the CAFA list, the attorney must complete and submit to LRS the CAFA Appointment List Application, the CAFA Appointment List Certification Form, and proof of at least 30 hours of CPS-related CLE training.

The LRS determines whether an attorney has met the Appointment List requirements and compiles a list of qualified attorneys. LRS transmits the list of qualified attorneys to the DJO, which appoints attorneys for cases as needed, on a rotating basis.

After an attorney is initially placed on the list, there is a yearly maintenance requirement of at least 8 hours of CPS-related CLE per year; and an updated CAFA Appointment List Application, including the CAFA Appointment List Certification Form.

This packet gives detailed instructions about how to apply to the list and policies relating to the list.

**Please Note: Attorneys who complete the mandatory training are not guaranteed any court appointments. All attorneys on the CAFA Appointment List are appointed at the discretion of the Court and an attorney may be denied admission to or removed from the appointment list at any time at the Court’s discretion.**

## Court Appointed Family Attorneys

The Court Appointed Family Attorneys (CAFA) is a section of the Austin Bar Association (ABA) supporting lawyers in this practice area. To join the CAFA Section, you must be a member of the ABA. Membership in the ABA CAFA Section is not required to be eligible to receive Court appointments from the Travis County Civil Courts CAFA Appointment List but membership in the section may be beneficial.

1. CAFA focuses on improving legal representation of children and parents involved with the Child Protective Services Division of the Department of Family and Protective Services.
2. CAFA members benefit from networking and resources. ABA CAFA Section members communicate via a Google Listserv. To request to be added to the Google Group, CAFA Section members can send a request to: [traviscountycafa+owners@googlegroups.com](mailto:traviscountycafa+owners@googlegroups.com).
3. Members receive discounts on all CAFA-sponsored CLE.
4. CAFA has had a beneficial impact on improving the professional standards of the child welfare law practice in Travis County.
5. Members enjoy professional support in meeting the challenges of child and parent advocate attorneys. New CAFA Attorneys may be assigned a CAFA Mentor.

## Procedures Governing CAFA Appointment List / Application

### 1. Training

For *initial placement* on the CAFA List, an attorney must complete 30 hours of CPS-related CLE; 8.25 hours of these 30 hours are mandatory core hours.

These mandatory CLEs are:

- Representing Children in CPS Cases (online class / mp3; can be completed online through [www.TexasBarCLE.com](http://www.TexasBarCLE.com)) (Satisfies Education Requirements/reduced fee for lawyers who agree to take court appointed CPS cases); MCLE Credit: 3 hrs. (includes 0.5 hrs. ethics); MCLE No: 174020154; Expires 6/30/19 – you must complete the course and report your MCLE hours prior to this date to receive credit; and
- Representing Texas Parents in Abuse and Neglect Cases (online class / mp3; can be completed online through [www.TexasBarCLE.com](http://www.TexasBarCLE.com)) (Satisfies Education Requirements/reduced fee for lawyers who agree to take court appointed CPS cases); MCLE Credit: 3.25 hrs. (includes 1 hr. ethics) MCLE No: 174000472; Expires 11/30/2018 – you must complete the course and report your MCLE hours prior to this date to receive credit, and
- New Procedures for Parent Attorney Appointments in CPS Cases (DVD available at Austin Bar Association, call 512-472-0279) (Satisfies Education Requirements/reduced fee for lawyers who agree to take court appointed CPS cases); MCLE Credit: 1 hr.; MCLE No: 174010129; Expires 12/28/2018 – you must complete the course and report your MCLE hours prior to this date to receive credit. (This course is mandatory as of 8/31/2015), and
- The Submission Docket for Child Protective Services Cases (Satisfied Education Requirements/reduced fee for lawyers who agree to take court appointed CPS cases); MCLE Credit: 1 hr.; MCLE No. 174004023; Expires 12/31/2018. The link to the course: <https://vimeo.com/214890640/f42cef2303>.

The additional hours beyond the mandatory courses listed above must be CPS-related CLE and must have been completed within the 12 months immediately prior to the date of your initial application.

For *maintenance* on the CAFA List, an attorney must complete an additional 8 hours of CPS-related CLE training each year (*see below*). All attorneys on the list must demonstrate that they have completed all mandatory CLEs (even those courses added after the lawyer's initial placement on the list) in order to be eligible for renewal.

**Please Note:** Please contact CAFA or LRS if you need assistance identifying upcoming CLE that qualifies as “CPS-related.” Please contact one of the CAFA board members for help if you wish to attend a CLE, but are not sure whether it counts toward the 30-hour requirement. LRS will make the final determination as to whether a CLE counts as “CPS-related” for CAFA purposes. There are also several CLEs available on TexasBarCLE.com which qualify and are available at a reduced fee for attorneys who will accept CPS appointments.

Additionally, Judge Darlene Byrne hosts a series of CPS-related CLE through a free monthly Brown Bag Lunchtime CLE Series. For more information, or to be added to the distribution list for these CLEs, please contact the 126<sup>th</sup> District Court at (512) 854-9313.

### 2. CAFA Application submitted to the Lawyer Referral Service

Submit completed applications to the LRS, attention Ms. Annie Melendez, whose direct line is (512) 472-1311 and fax number is (512) 472-2695, or [Annie@AustinLRS.org](mailto:Annie@AustinLRS.org). Remember to submit contact information changes to LRS, which will then submit an updated list to the DJO. Each completed application is subject to review by and approval of the District Judges at their next monthly meeting and attorneys should be aware that your application, once complete, will be held until it can be reviewed at a meeting of the District Judges.

LRS will update the list as names are added. The updated list is forwarded to the DJO, the DJO will then process appointments and send the appointment orders via email. The DJO uses a computer system which assigns cases on a rotating basis.

### 3. Maintenance Requirement

To remain on the CAFA appointment list, an attorney must complete two steps:

- a. Complete 8 hours of CPS-related CLE annually. The 8-hour maintenance requirement is due on the last day of October following the one-year anniversary of being accepted on the appointment list. For example, if a name is added to the appointment list in October of any year, the 8-hour requirement must be met by October 31<sup>st</sup> of the following year. If added to the appointment list in a month after October, the 8-hour requirement must be met by October 31<sup>st</sup> of the following year. Submit proof of CLE to the LRS office.
- b. Complete the *CAFA Appointment List Application* and the two page *CAFA Appointment List Certification Form* and submit this to the LRS office with proof of CLE.

Those who do not complete the above-described steps will be automatically removed from the CAFA list after the renewal deadline each year. Please note that, like initial applications, completed renewal applications are subject to review by and approval of the District Judges at their next monthly meeting.

### 4. CLE Waivers

A judge may waive the minimum CLE requirements (for attorneys who are initially applying to the CAFA list or seeking to renew their status on the list) if an attorney is bilingual (capable of representing Spanish-speaking clients) or has substantial experience or other skills. Contact the LRS office or the 126th District Court at (512) 854-9313 to request a CLE waiver request form. When completed, submit the waiver request form, a copy of your resume, and a copy of the completed *CAFA Appointment List Application* and the *CAFA Appointment List Certification Form* to the DJO. If the Judge approves your CLE waiver, submit the entire packet to LRS for final processing.

The judicial waiver process must be completed each year by the renewal deadline to remain eligible to receive appointments.

## Policies Regarding the CAFA Appointment List

### 1. Court Teams

Each attorney on the CAFA Appointment List is assigned into a Court Team aligned with the docket of one CPS Judge. When applying for the list, an attorney may state a preference of which Court Team they prefer to be added to, although this preference is not guaranteed due to a need to balance the teams. As of October 1, 2018, Judge Martinez Jones' Court Team covers CPS dockets on Wednesday and Friday, and Judge Byrne's Court Team covers CPS dockets on Tuesday and Friday. Both Court Teams have Monday morning contested hearing docket calls and matters from that docket call may be heard Monday or throughout the week as space allows.

### 2. Rotation / Discretionary Nature of Appointments

The Travis County District Judges issue all CAFA appointments as these appointments are needed. These orders are processed by the DJO. The DJO uses a computer system which provides the name of the next available attorney on the appropriate Court Team in order on the wheel (which is not on an alphabetical basis). Generally, when the DJO appoints an attorney to represent an unknown father, they will also provide that attorney with the next available appointment that is not an unknown father. In an effort to make the appointment process one that ensures the assignment of an attorney with appropriate training, skills, and client capacity, the District Judges retain full discretion in the assignment process. In order to best manage the caseload and accommodate all parties entitled to appointed counsel, the Court may occasionally (for good cause) exercise its discretion by assigning cases in a manner that deviates from the usual rotation or by appointing attorneys who are not on the appointment list.

### 3. Admission to / Removal from List

Because all attorneys on the Court's appointment list are appointed at the discretion of the Court, an attorney may be denied admission to or be removed from the appointment list at any time at the Court's discretion. Attorneys should understand that they do not have any right to receive cases from the CAFA appointment list and that there is no procedure to appeal the decision of the District Judges to decline to place their name on the CAFA appointment list or remove them from the CAFA appointment list. Attorneys are not guaranteed any court appointments, even if they complete the mandatory training.

### 4. Email Appointments

When an appointment is made, the Appointment Management Portal (AMP)—the court appointment computer system operated by the DJO will send an email notification to the appointed attorney with the appointment order attached. If the appointment is made immediately at the time the case is opened, the District Attorney's office will typically send the appointed attorney a copy of the petition, the sworn affidavit of extraordinary relief, and the ex-parte / show cause order in the case. (Attorneys may access the AMP system, which allows court appointed attorneys to manage their appointments including viewing the case documents and the Register of Actions for each cause and submitting vouchers for payment. AMP is available at: <http://www.traviscourtsapplications.org/portal>). It is extremely important that the DJO has each attorney's current contact information, especially your email—please update the DJO and LRS immediately with any changes. Check email at least every 24 hours for appointments for which an attorney will be held professionally responsible. If no documents are attached to a notification email, please access AMP or check with the Clerk's Office to obtain the documentation needed to proceed with representation.

### 5. Planned Absence / Vacation Letter to District Judge's Office

If an attorney plans to become unavailable for a specific period of time (vacation, sick or maternity leave, etc.), the attorney is required to notify the DJO by fax or email as soon as possible prior to the absence/leave date. This ensures no appointments are made to those unavailable to effectively represent appointed clients, delays are avoided, and costs to the County are minimized.

## 6. Substitution / Withdrawal

If an attorney is unable to accept an "Early Appointment" made prior to the initial hearing in the case, the attorney should, as soon as possible, email the CPS Appointment Submission Email at [CPSAttorneyAppointments@traviscountytx.gov](mailto:CPSAttorneyAppointments@traviscountytx.gov) and request that a substitution order be issued to sub in the next available attorney. If withdrawal from an appointment is necessary after the initial hearing in a case, the attorney *subbing out* must identify an attorney to *sub in* who must also be on the CAFA list, on the same Court Team, and eligible to receive appointments. Usually, in substitutions made after the first hearing, the attorney who is *subbing in* prepares the Motion and the Order and subsequently bills the County. Once all parties have signed the documents to indicate agreement, the substituting attorney may email the document to the CPS Appointment Submission email at [CPSAttorneyAppointments@traviscountytx.gov](mailto:CPSAttorneyAppointments@traviscountytx.gov) (please be sure to follow the Submission protocol available online at: [https://www.traviscountytx.gov/images/courts/Docs/protocol\\_for\\_submission\\_docket.pdf](https://www.traviscountytx.gov/images/courts/Docs/protocol_for_submission_docket.pdf)); or hand-deliver the documents to the DJO to be placed in Judge Byrne's mailbox for signature. This withdrawal/substitution procedure may not apply in a case where the withdrawing attorney must seek a client's consent to the withdrawal and substitution. *Please refer to Local Rule 6.1 with regard to when a hearing is necessary on a motion for withdrawal or substitution.* If a hearing is necessary and anticipated to be handled in 5 minutes or less, it should be set on the regular CPS docket reserved for hearings of 5 minutes or less. Contact the Court Administrator's Office to request a setting on this docket. Unless an attorney handles a substitution through the CPS Attorney Appointments email, a copy of the signed Order should be provided to all parties and the CPS caseworker to ensure that the attorney who is substituting in receives all notices he/she is entitled to throughout the case. Please also provide a copy of any signed substitution or withdrawal order in a CPS case to the District Judge's Office staff, so they may update the attorney of record in the CPS database / case tracking system.

Please be advised that, if you are taking over another attorney's CPS case and you choose to start working on the case prior to the Judge's signature of the substitution order, the Court expects you to finalize your substitution order as soon as possible so that you may be reflected as the attorney of record in the case in a timely manner. The new electronic fee bill system records the date any appointment or substitution order is rendered and the system has been intentionally set up to allow an attorney to bill for a period of time of **only up to 2 weeks prior to the date any appointment or substitution order is rendered by a judge.** If the finalization of a substitution order takes an attorney more than 2 weeks, the attorney who is *subbing OUT* of the case (who the Court notes has actually remained the official attorney of record) will need to bill the county for any fees incurred prior to the 2 week time period and the Court assumes that attorney can then reimburse the attorney who is subbing into the case. Attorneys will need to obtain express judicial permission to bill any further back than 2 weeks prior to the day a Judge signs an appointment or substitution order and the Court anticipates this will only very rarely be allowed for an exceptional reason. The fact that an attorney simply sat on the finalization of a substitution order will not be considered an exceptional circumstance.

## 7. Mileage Reimbursement

Attorneys may request reimbursement for mileage for reasonable and necessary out-of-county travel performed in conjunction with court-appointed representation. Mileage is reimbursed at the approved county rate at the time of travel.

- a. Judicial authorization is not required for travel within Travis and to contiguous counties. Reasonable and necessary mileage for travel to contiguous counties is reimbursable at allowable county reimbursement rates. Travel within Travis County is NOT reimbursed.

- b. When traveling to a county that is NOT contiguous to Travis (i.e. Lubbock), submit a written request prior to travel for advance approval of the mileage reimbursement, explaining why travel is reasonable and necessary. Use the form described below for this purpose. (Before submitting the request to the judge, consider whether it might constitute an ex parte communication. If so, please copy all parties.) Requests may also be made during a hearing. Written travel authorizations (approved forms, court orders, or other written proof of authorization) must be attached to billing and to requests for mileage reimbursement. If travel approval was not obtained prior to travel, submit a written explanation of why advance approval was not obtained. (Again, please consider whether this might constitute an ex parte communication and take appropriate steps to copy all parties if necessary and appropriate.) A judge will review all requests for reimbursement.
- c. Other than mileage, NO fees associated with an attorney's travel will be reimbursed unless specifically approved in writing by a Judge in advance of travel. This includes fees for use of toll roads, public transportation, plane tickets, taxi fare, car rental, hotels, meals, and other expenses.
- d. If you are seeking travel authorization for the purpose of complying with Tex. Fam. Code. §107.004(d) or §107.0131(a)(1)(G), please note that it is the Court's expectation that, before seeking travel authorization, you will research whether you can confer with your client, as appropriate, by telephone or video conference and will use the most efficient and appropriate method possible under the circumstances to communicate with your client. You may use the forms described below to seek a waiver of pre-hearing meeting with client or authorization to communicate with your client by telephone or video conference.
- e. Detailed Forms are available to help attorneys "Request Judicial Approval of Out-Of-County Travel" or Seek a "Waiver of Statutory Requirement to meet with a Client before a Hearing" in circumstances where there is good cause for such a waiver under Tex. Fam. Code. §107.004(e) or §107.0131(a) (1) (G). These forms are now available at: <https://www.traviscountytx.gov/courts/files/cps>. Once completed, Travel Authorization or Travel Waiver may be requested through the CPS Submission Docket at [CPSSubmissionDocket@traviscountytx.gov](mailto:CPSSubmissionDocket@traviscountytx.gov). Please be sure to follow the submission protocol available online at: [https://www.traviscountytx.gov/images/courts/Docs/protocol\\_for\\_submission\\_docket.pdf](https://www.traviscountytx.gov/images/courts/Docs/protocol_for_submission_docket.pdf).

8. Co-Counsel or 2<sup>nd</sup> Chair

Unless specific prior court approval is provided in writing, attorneys should not bill Travis County for legal services by co-counsel or a 2<sup>nd</sup> chair attorney, law clerk, legal assistant, or paralegal performing the same work. For example, an attorney should not bill the county for expenses or legal fees associated with conferring with a legal assistant or having a paralegal sit through a trial without prior written court approval.

9. Interpreters for Clients Who Do Not Speak English

The Court maintains a list of attorneys who speak other languages. If you encounter a language barrier with an appointed client, contact the DJO to request names of lawyers who speak that language. The list of approved expenses does NOT include expenses related to language interpreters.

The list of County-approved expenses changes from time to time. It is now available at:

[https://www.traviscountytx.gov/images/courts/Docs/indigent\\_attorney\\_fee\\_reimbursable\\_expenses\\_CivilDistrictCPS.pdf](https://www.traviscountytx.gov/images/courts/Docs/indigent_attorney_fee_reimbursable_expenses_CivilDistrictCPS.pdf)

10. Billing / Invoicing

The Civil Courts utilize the Appointment Management Portal (AMP) for all invoice submissions in CPS cases. Attorneys will need to register for access to AMP, and can do so here:

<http://www.traviscourtsapplications.org/courtsuserregistration/register/amp>

After the request is processed, the attorney will receive a user guide via email.

- a. Frequency of Billing: Attorneys are asked to routinely tender their bills no more frequently than on a monthly basis. If multiple bills are submitted on a cause for legal fees accrued period of 30 days or less, this creates an administrative burden on the Court and court staff and requires lengthy and close comparative scrutiny of the numerous bills.
- b. Invoice Submission Deadline: An invoice submitted more than one year after the services were rendered must be accompanied by an explanation of good cause for the delay, without which the invoice is considered untimely and unreasonable. Because the Judge reviews all bills, please avoid descriptions that may be construed as ex parte communications. Late invoices will be processed in the order received and are subject to available funds.
- c. Rounding Hours: Hours billed should be rounded to the nearest 1/10<sup>th</sup> of an hour. A Judge reviews all bills so avoid descriptions that may be construed as ex parte communications. If submitting an invoice for a series of consecutive actions, each less than 1/10<sup>th</sup> of an hour, please calculate the total amount of actual time spent on the series of actions rather than bill each action individually.
- d. List of Approved Expenses: The County reserves the right to deny reimbursement to attorneys for ANY expense that is not expressly included in the County's itemized list of approved attorney fee expenses (see link in paragraph 9). Prior judicial approval must be obtained for an item not on the approved attorney fee list. This list of approved expenses is subject to change at any time. The most current list of approved expenses is posted at the Travis County District Court website under "CPS Documents and Forms."
- e. Reasonable and Necessary Fees: The Judges will review and determine whether reimbursement requests are reasonable and necessary. The Judge has full discretion to reduce and/or deny reimbursement requests for services which are determined not to be reasonable and necessary. Within thirty (30) days of a reduction and/or denial of reimbursement, an attorney may submit a written request to the DJO stating reasons why the expense should be reimbursed. If the attorney fails to file a response to the reduction and/or denial within thirty (30) days of the date of reduction and/or denial, the attorney is deemed to have waived the opportunity for a review of fees.
- f. Failure to Comply with Invoicing Policies: Failure by an attorney to comply with billing and invoicing procedures in this packet may result in the reduction or non-payment of an attorney fee invoice and/or may result in the attorney receiving no future court-appointments.

For technical questions please email: [Courts-Help@traviscountytexas.gov](mailto:Courts-Help@traviscountytexas.gov)

For appointment questions please email: [Appointments.Fees@traviscountytexas.gov](mailto:Appointments.Fees@traviscountytexas.gov)

For billing questions please email: [CivilAttorneyFees@traviscountytexas.gov](mailto:CivilAttorneyFees@traviscountytexas.gov)