



# New York State Correctional Officers & Police Benevolent Association, Inc.

102 Hackett Blvd. - Albany, NY 12209  
(518) 427-1551 [nyscopba@nyscopba.org](mailto:nyscopba@nyscopba.org)



## **LEGAL DEFENSE FUND POLICY**

NYSCOPBA has created a Legal Defense Fund for its members. The NYSCOPBA Executive Board, in its discretion, based on the facts and circumstances of each case, shall determine whether the actions occurred while the member was engaged in the lawful performance of his or her duties and that assisting in such legal defense shall be consistent with the overall interests of the general membership. The NYSCOPBA Executive Board shall consider the following criteria:

### **1. Eligibility**

- a. **Performance of Duty:** The coverage is only for members' acts or omissions that occurred in the course and scope of the members' performance of duty and must be consistent with the overall interests of the general membership. If the member is involved in alleged off-duty conduct, money from the Legal Defense Fund shall not be used (e.g. domestic incidents, outside drug and/or alcohol charges, workers' compensation, theft).
- b. **Former Member:** The member must be an active member, except insofar as the event giving rise to the claim occurred while the individual was an active member.
- c. **Approved Leave of Absence:** If the member is on leave of absence approved by his or her employer, the member will be eligible for benefits under the Legal Defense Fund plan for events occurring prior to his or her approved leave of absence. Events occurring while the member was on the leave will not be covered.

### **2. Termination of Benefits**

#### **Benefits Will Automatically Terminate:**

- a. When the Legal Defense Fund is terminated. Except insofar as the acts or omissions giving rise to the claim occurred prior to such termination while the member was an active member; or
- b. The acts or omissions giving rise to the claim occurred prior to the termination while the individual was an active member; or
- c. When there are inadequate resources in the Legal Defense Fund for the payment of benefits; or

- d. When a decision is made by the Executive Board that the member's actions which are the subject of the complaint are not within the course and scope of employment which is covered by the Legal Defense Fund as set forth in paragraph 1(a); or
- e. When the benefits are provided to the member based on misrepresentations; or
- f. When the member is untruthful to, and does not cooperate with, the Executive Board. In such case, payment of legal services under this plan may be suspended or terminated and the Legal Defense Fund will have the right to obtain reimbursement from the member for the full amount expended by the fund; or
- g. When the member fails to seek timely reimbursement under the New York State Public Officers Law (POL) Section 19; or
- h. When the member fails to agree to the terms of the Legal Defense Fund agreement. The agreement will provide, among other terms, that if the member is acquitted of the charges or it is determined that the member is entitled to reimbursement of his/her legal fees, the member agrees to cooperate with NYSCOPBA in seeking reimbursement from the Attorney General's Office and return money given from the fund to NYSCOPBA.

### **3. Amount of Coverage**

The amount of the benefit shall be \$25,000. The \$25,000 shall be broken down in the following manner:

- a. 5,000 may be provided, based on the above criteria, up to the time of arraignment.
- b. When a criminal information and/or Indictment is issued, the member may request from the Executive Board additional funds in *increments up to* \$10,000, not to exceed \$25,000.
- c. The member must provide documentation requested by the NYSCOPBA Executive Board to ensure that the NYSCOPBA expenditure is appropriate.
- d. Notwithstanding the above, The Executive Board in its discretion, based on the facts & circumstances of an individual case, may authorize additional funds when necessary as is consistent with the overall interest of the general membership.

### **4. The Process to Request Funding**

If a member seeks an allocation from the Legal Defense Fund, he/she must make an application to the Regional Vice President of his or her Region. The member may initially seek up to \$5,000 up to the time of arraignment as set forth in paragraph 3.

After the member has been arraigned, he or she may request additional funds from the Executive Board with an explanation on how the action occurred while the member was engaged in the lawful performance of his or her duties and that assisting in such defense shall be consistent with the overall interests of the general membership. The coverage is only for acts of omissions that occurred in the course of employment. The member must make clear in his or her application how his or her request is related to such events. The payments will be made only after the member complies with all requests of the NYSCOPBA Executive Board. If the Executive Board approves the member's request, the check will be transmitted directly to the member's criminal attorney.

**5. No Coverage For Appeals**

No benefits shall be provided for the post-sentencing or Appellate review.

**6. No Coverage for Civil Claims**

The fund shall not be used for any civil claims.

*Adopted at the Executive Assembly October 2012*



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## LEGAL DEFENSE FUND APPLICATION

To: \_\_\_\_\_  
(Your Regional Vice President)

Date: \_\_\_\_\_

From: \_\_\_\_\_  
(Your name)

Title: \_\_\_\_\_  
(Your title)

Agency and Facility: \_\_\_\_\_  
(Your agency and work location)

E-Mail: \_\_\_\_\_  
(Please print)

Telephone: \_\_\_\_\_  
(Home phone)

\_\_\_\_\_  
(Cell Phone)

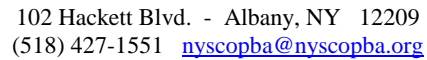
Amount Requested: \_\_\_\_\_

**All information and documents below are REQUIRED. The application CANNOT be considered by the Executive Board until all three requirements below are met.**

- 1. Attach a copy of the information, complaint, accusatory instruments and/or Grand Jury Subpoena.** If you do not have any of the above, attach an additional sheet containing date, time, nature of the arrest and the agency and/or department who arrested you.
- 2. On an attached sheet, state how your alleged act or omission occurred in the course and scope of your lawful performance of duty.** The Executive Board will consider whether assisting in such legal defense is consistent with the overall interests of the general membership.
- 3. Attach documents showing you applied for reimbursement under NYS Public Officer Law §19.** The application for reimbursement is attached to this application and must be sent by you, via certified mail return receipt requested and via regular mail to the Attorney General's Office. Reimbursement under Section §19 of the Public Officers Law is time-sensitive and is conditioned on delivering to the Attorney General's office a written request for reimbursement within ten (10) days after arraignment or after a grand jury appearance. Written evidence (such as a subpoena) of the grand jury appearance is also required. Further, §19 of the Public Officers Law conditions reimbursement upon your full cooperation in the defense of any action or proceeding against the State which might have arisen out of your actions. Reimbursement is left to the discretion of the Attorney General's Office. (Attached is a copy of Public Officer's Law §19 and the policy adopted by the Executive Assembly October 2012.)

Signed: \_\_\_\_\_

Date: \_\_\_\_\_



How did the alleged act or omission occur during the course and scope of your lawful performance of duty?



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[Date]

Hon. Eric T. Schneiderman  
NYS Attorney General  
Office of the Attorney General  
The Capitol  
Albany, NY 12224-0341

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**AND REGULAR MAIL**

**Re: Reimbursement of Attorney Fees**

Dear Attorney General Schneiderman:

I am employed as a \_\_\_\_\_ with the \_\_\_\_\_ (Department/Agency). Pursuant to § 19 of the Public Officers Law, I am writing to request reimbursement of attorneys' fees and litigation expenses.

Enclosed is a copy of my accusatory instrument.

Please let me know if you require any additional information.

Very truly yours,



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Dear Attorney General Schneiderman:

I am employed as a \_\_\_\_\_ with the \_\_\_\_\_ (Department/Agency).  
On \_\_\_\_\_, I was required to appear before the \_\_\_\_\_ Grand Jury. Pursuant to § 19  
of the Public Officers Law, I am writing to request reimbursement of attorneys' fees and litigation  
expenses.

Please let me know if you require any additional information.

Very truly yours,