

CHAPTER 78

ADMINISTRATION OF VICTIM AND WITNESS ADVOCACY FUND

Authority

N.J.S.A. 2C:43-3.1a(6)(c) and 52:4B-43.1.

Source and Effective Date

R.1993 d.687, effective November 24, 1993.
See: 25 N.J.R. 4721(a), 25 N.J.R. 5939(b).

Executive Order No. 66(1978) Expiration Date

Chapter 78, Administration of Victim and Witness Advocacy Fund, expires on November 24, 1998.

Chapter Historical Note

Chapter 78, Administration of Victim and Witness Advocacy Fund, was adopted as R.1989 d.156, effective March 20, 1989. See: 20 N.J.R. 2997(b), 21 N.J.R. 774(b). Pursuant to Executive Order No. 66(1978), Chapter 78 was readopted as R.1993 d.687. See: Source and Effective Date. Chapter 78 was extensively amended by R.1993 d.687, which included the adoption of new subchapters 2, 3 and 4, and the recodification of existing subchapters 2, 3 and 4 as subchapters 6, 5 and 7, respectively. The revisions were effective December 20, 1993. See: 25 N.J.R. 4721(a), 25 N.J.R. 5939(b).

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SUBCHAPTER 1. GENERAL PROVISIONS

13:78-1.1 Purpose

The rules in this chapter govern the administration of the Victim and Witness Advocacy Fund, created pursuant to P.L.1979, c. 396, § 2 (N.J.S.A. 2C:43-3.1a(6)(c)), as amended by P.L.1991, c. 329, § 3 and P.L.1991, c. 329, § 20 (N.J.S.A. 52:4B-43.1). This Fund is legislatively mandated to support the State Office of Victim-Witness Advocacy and county Offices of Victim and Witness Advocacy with the development and provision of services to victims and witnesses of crimes, and for related administrative costs. The Director is also authorized to award moneys to qualified public entities and qualified not-for-profit organizations who provide specific direct services to victims and witnesses. Moneys distributed to public entities according to this chapter shall be used to implement the legislative mandates and the Attorney General Standards to Ensure the Rights of Crime Victims, promulgated pursuant to N.J.S.A. 52:4B-44.

13:78-1.2 Legal authority

The Director of the Division of Criminal Justice within the Department of Law and Public Safety is charged with the responsibility to establish rules deemed necessary to effectuate the purposes of the Fund under N.J.S.A. 2C:43-3.1a(6)(c) and 52:4B-43.1.

13:78-1.3 Scope

The rules contained in this chapter shall govern the award of moneys from the Victim and Witness Advocacy Fund to the county Offices of Victim and Witness Advocacy and other public entities pursuant to N.J.S.A. 52:4B-43.1b and shall govern the determination of eligibility of applicant public entities and applicant not-for-profit organizations as eligible and qualified to apply for awards to provide direct services to victims and witnesses of crimes pursuant to N.J.S.A. 52:4B-43.1c.

13:78-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the provisions of N.J.S.A. 52:4B-43.1.

“Attorney General Standards” means the Attorney General Standards to Ensure the Rights of Crime Victims, N.J.S.A. 52:4B-44.

“Direct services” means the provision of assistance directly to victims and witnesses, including, but not limited to, one or more of the following as may be determined by the Director:

1. Shelter, food and clothing;
2. Medical and legal advocacy services;
3. 24-hour crisis response services and 24-hour hot-lines;
4. Information and referral and community education;
5. Psychiatric treatment programs;
6. Expanded services for victim’s families and significant others;
7. Short and long term counseling and support groups;
8. Emergency locksmith and carpentry services; or
9. Financial services.

“Director” means the Director of the Division of Criminal Justice.

“Fund” means the Victim and Witness Advocacy Fund as set forth at N.J.S.A. 2C:43-3.1.

“Not-for-profit organization” means any corporation or other organization organized under Title 15A of the New Jersey Revised Statutes or otherwise qualified for non-profit tax exemption providing direct services to victims or witnesses of crimes.

“Public entity” means any public corporation or political subdivision of this state or agency of local government of this state providing direct services to victims or witnesses of crimes.

“Qualified” means an entity or organization eligible, pursuant to N.J.S.A. 52:4B-43.1, to apply for moneys from the Victim and Witness Advocacy Fund.

“State Fiscal Year” or “SFY” means the fiscal year of the State of New Jersey, which begins on July 1 of a particular year and ends on June 30 of the following year.

“Victim” means a person who suffers personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the homicide victim.

“Witness” means a person who suffers personal physical or psychological injury or incurs loss of or injury to personal or real property or requires services as a result of the prosecution’s intent to call the person to testify in any criminal matter.

SUBCHAPTER 2. ELIGIBILITY—PUBLIC ENTITIES AND NOT-FOR-PROFIT ORGANIZATIONS

13:78-2.1 Eligibility criteria and applications

Eligibility of a qualified public entity or qualified not-for-profit organization, as an applicant, shall be determined annually upon the submission of qualifying criteria to the Director. Eligibility will be determined pursuant to the criteria set forth at N.J.S.A. 52:4B-43.1c. The burden of demonstrating eligibility shall be on the applicant. To be eligible an applicant must annually submit an eligibility application, with supporting documentation, on forms provided by the Director.

13:78-2.2 Notification of eligibility or ineligibility

Within 90 days of the close of the annual eligibility application due date, the Director shall notify each applicant which has submitted a timely application for eligibility, of its eligibility or ineligibility. In the case of ineligibility the notice shall set forth the reasons for such ineligibility.

13:78-2.3 Notice of appeal of notification of ineligibility

Any applicant receiving notice of ineligibility shall have 15 days from receipt of such notice to file an appeal with the Director and submit to the Director any additional written information on eligibility.

13:78-2.4 Determination of appeals

Within 45 days of the receipt of any additional information the Director shall review the appeal based on any written documentation or written information submitted by an applicant appealing a notice of ineligibility. The Director shall make a decision in writing regarding the eligibility of the applicant and shall notify the applicant of the decision. The Director’s decision shall be final.

13:78-2.5 Annual notice of application for eligibility

(a) In the New Jersey Register immediately following January 1 of each year, the Director will publish a notice to the public of the due date for receipt of annual eligibility applications under the provisions of N.J.S.A. 52:4B-43.1.

(b) Contemporaneously with the notice in (a) above, the Director will also notify qualified public entities and qualified not-for-profit organizations of the annual eligibility application due date, provided they have:

1. Previously received or applied for an award within the past two State Fiscal Years;

2. Made a written request to the Director to be given notice of the eligibility application; or
3. Are an organization deemed eligible pursuant to N.J.S.A. 52:4B-43.1d.

(c) The Director may also provide notice of the eligibility application due date through such other means as he or she may deem appropriate.

13:78-2.6 Notice of applicants determined to be eligible

The annual list of eligible qualified public entities and eligible qualified not-for-profit organizations, as determined by the Director, shall be published in the New Jersey Register.

SUBCHAPTER 3. APPLICATION FOR MONEYS BY ELIGIBLE QUALIFIED PUBLIC ENTITIES AND ELIGIBLE QUALIFIED NOT-FOR-PROFIT ORGANIZATIONS

13:78-3.1 Annual application for moneys

Each year, the Director shall provide application forms and information required to make application for moneys from the Victim and Witness Advocacy Fund to eligible qualified public entities and eligible qualified not-for-profit organizations. Application forms and related materials must be completed, in full, and returned to the Director no later than the due date as indicated on the application.

SUBCHAPTER 4. FUNDING OF AWARDS

13:78-4.1 Amount of moneys available for awards

(a) The amount of moneys available for awards each year is dependent upon the total amount collected and deposited into the Fund and designated by the State Treasurer as available for distribution.

(b) Moneys are available for expenditure during the State Fiscal Year (SFY) of award.

(c) Approved expenditures may be reimbursed retroactively to the beginning of the SFY, even though moneys may not be awarded until later in the SFY.

SUBCHAPTER 5. ALLOCATION AND DISBURSEMENT FROM FUND

13:78-5.1 Allocation of moneys available from Victim and Witness Advocacy Fund

(a) Available moneys deposited in the Fund shall be allocated by the Director as follows:

1. Moneys first shall be allocated to provide complete funding for the State Office of Victim-Witness Advocacy within the Division of Criminal Justice, established pursuant to N.J.S.A. 52:4B-43, and shall be in an amount sufficient to provide for all staff salaries and any other necessary operational expenses.

2. After the allocation of moneys to the State Office of Victim-Witness Advocacy, moneys shall be allocated to the county Offices of Victim and Witness Advocacy based on a formula that may include a base amount, a county's population, crime rate, and number of cases reviewed by the prosecutor's office. The Director may allocate additional funding for special projects or other such purposes over and above the regular allocation.

3. After the allocation of moneys to the State Office of Victim-Witness Advocacy and the county Offices of Victim and Witness Advocacy, the Director may allocate moneys to eligible qualified public entities and eligible qualified not-for-profit organizations, and the allocation may be based on a formula which may take into account the population of the county in which the entity or organization provides direct services, and the crime rate in that county.

13:78-5.2 Disbursement of moneys to State and county Offices of Victim and Witness Advocacy

(a) The Director shall determine the amount required to fund the State Office of Victim-Witness Advocacy and authorize transfer of moneys for this purpose.

(b) In distributing moneys to the county Offices of Victim and Witness Advocacy within each county prosecutor's office, established pursuant to N.J.S.A. 52:4B-44b and 52:4B-45, the following procedures shall be followed:

1. Each county prosecutor shall provide the State Office of Victim-Witness Advocacy with an estimation of the costs to operate the county Office of Victim and Witness Advocacy, extracted to the extent possible from the overall budget to be submitted to the respective county governing body. These estimated figures shall be supplied on a form provided by the Director. The estimated budget request figures shall indicate the salary costs for the County Victim-Witness Coordinator and other personnel, as well as an approximation of other expenses such as supplies, equipment, motor vehicles, travel, training, and other operating expenses.

2. Each county prosecutor shall provide, to the Director, a detailed description of proposals and associated projected costs intended to enhance the basic provision of services to victims and witnesses, which would be provided from the Fund.

3. The Director, or Director's designee, shall review the funding application submitted by each county prosecutor. The Director may reject, in whole or in part, any funding application request deemed excessive or not integral to the implementation of the legislative mandates or the Attorney General Standards.

4. To ensure that moneys are available to be awarded to other public entities, pursuant to N.J.S.A. 52:4B-43.1b, and to eligible qualified public entities and eligible qualified not-for-profit organizations, pursuant to N.J.S.A. 52:4B-43.1c, the Director shall determine the appropriate amount for disbursement to each county prosecutor for contribution toward the provision of services for victims and witnesses in that county.

5. Moneys from the Fund may be withheld from a county until that county's governing body approves the county prosecutor's budget request for the county Office of Victim and Witness Advocacy, as was furnished in the application form previously submitted to the Director. If the county governing body appropriates an amount to the county prosecutor which differs from the original budget request, the prosecutor shall submit to the Director a revised funding application. In his or her discretion, the Director shall modify the disbursement authorized accordingly.

6. A committee designated by the Director shall review any funding application submitted by a county prosecutor for special projects or other such purposes other than the moneys awarded pursuant to N.J.S.A. 52:4B-44b and 52:4B-45, and shall make recommendations to the Director concerning the award of any additional moneys. The Director may allocate to a county prosecutor additional funding for special projects or other such purposes over and above the award granted pursuant to N.J.S.A. 52:4B-44b and 52:4B-45. A county prosecutor seeking such additional funding shall comply with application procedures specified for other public entities.

13:78-5.3 Disbursement of moneys to other public entities

After the allocation of moneys to the State Office of Victim-Witness Advocacy and county Offices of Victim-Witness Advocacy, a committee designated by the Director shall review any funding applications submitted by municipalities or other public entities, pursuant to N.J.S.A. 52:4B-43.1b, and make recommendations to the Director concerning the award of any available moneys. The Director may distribute funds to municipalities or other public entities, pursuant to N.J.S.A. 52:4B-43.1b, and as deemed appropriate for the implementation of the legislative mandates and the Attorney General Standards.

13:78-5.4 Disbursement of moneys to eligible qualified public entities and eligible qualified not-for-profit organizations

(a) A committee designated by the Director shall review the funding application (N.J.A.C. 13:78-3) submitted by each eligible qualified public entity and each eligible qualified not-for-profit organization and shall make recommendations to the Director concerning the award of moneys.

(b) At the discretion of the Director, moneys may be awarded to eligible qualified public entities and eligible qualified not-for-profit organizations whose funding applications will satisfy the statutory criteria (N.J.S.A. 52:4B-43.1c) to establish or enhance direct services to victims and witnesses.

(c) Moneys from the Fund may be withheld by the Director from eligible qualified public entities and eligible qualified not-for-profit organizations until all fiscal reporting requirements are met.

13:78-5.5 Compliance with State and local laws

Any public entity, receiving moneys for victim and witness assistance or advocacy from the Fund under this chapter, shall comply with and follow State of New Jersey procurement practices and procedures pursuant to the "Local Public Contracts Law," N.J.S.A. 40A:11-1 et seq., and any other controlling State or local laws or ordinances.

13:78-5.6 Notification of awards

(a) County prosecutors, other public entities, eligible qualified public entities and eligible qualified not-for-profit organizations whose funding applications have been found, by the Director, to satisfy the statutory criteria concerning victim and witness assistance or advocacy will receive notification in the form of a letter.

(b) In a notification of an award, the Director will include a contract which must be executed and returned to the Director before any moneys can be disbursed.

(c) In addition, the Director will publish a public notice in the New Jersey Register listing all awards made for a particular SFY.

SUBCHAPTER 6. USE OF FUND DISTRIBUTIONS

13:78-6.1 Use of Victim and Witness Advocacy Fund by county Offices of Victim and Witness Advocacy or other public entities

Moneys from the Fund which are distributed to the county Offices of Victim-Witness Advocacy or other public entities shall be used to implement the legislative mandates and the Attorney General Standards and shall not supplant budgeted funding or any other available funding currently in existence. These moneys may be used to establish or enhance victim-witness waiting rooms, to hire and train personnel to provide services in accordance with the legislative mandates and the Attorney General Standards, to purchase computer equipment to maintain communications with victims and witnesses, or for such other purposes as the Director may authorize.

13:78-6.2 Use of Victim-Witness Advocacy Fund by eligible qualified public entities and eligible qualified not-for-profit organizations

Moneys from the Fund which are distributed pursuant to N.J.S.A. 52:4B-43.1c shall be used to establish or enhance direct services to victims and witnesses.

SUBCHAPTER 7. ACCOUNTING AND AUDIT

13:78-7.1 Accounting, reporting and audit

(a) Any county prosecutor, other public entity, or eligible qualified public entity which receives moneys from the Fund shall maintain a separate account in which such moneys shall be held, along with detailed records of all receipts, expenditures and unexpended balances. Each county prosecutor, other public entity, or eligible qualified public entity shall submit, to the Director, a monthly report, as well as an

annual report at the end of each State Fiscal Year identifying separately all receipts, expenditures and unexpended balances of moneys received from the Fund. Any unexpended balances at the end of the SFY are subject to return to the State. For the purpose of uniformity the Director may prepare forms for these reports.

(b) Any eligible qualified not-for-profit organization which receives moneys from the Fund shall maintain detailed records which identify separately all receipts, expenditures and unexpended balances of moneys received from the Fund. Each eligible qualified not-for-profit organization shall submit, on forms provided by the Director, a monthly report, to the Director, as well as an annual report at the end of each State Fiscal Year. Any unexpended balances at the end of the State Fiscal Year are subject to return to the State.

(c) The State of New Jersey reserves the right to periodically audit any of the records referenced in this subchapter.