

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.2004 d.224, effective May 20, 2004.
See: 36 N.J.R. 15(a), 36 N.J.R. 3065(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 78, Administration of Victim and Witness Advocacy Fund, expires on November 16, 2009.
See: 41 N.J.R. 2626(a).

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, Administration of Victim and Witness Advocacy Fund, was readopted as R.1993 d.687, effective November 24, 1993. 25 N.J.R. 4721(a), 25 N.J.R. 5939(b). 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).

Pursuant to Executive Order No. 66(1978), Chapter 78, Administration of Victim and Witness Advocacy Fund, was readopted as R.1998 d.587, effective November 24, 1998. See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b). As part of R.1998, Subchapter 2, Eligibility Public Entities and Not for Profit, was repealed and new Subchapter 2, Eligibility Criteria, was adopted, effective December 21, 1998. See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Chapter 78, Administration of Victim and Witness Advocacy Fund, was readopted as R.2004 d.224, effective May 20, 2004. See: Source and Effective Date.

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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, county Offices of Victim-Witness Advocacy and other public entities with the development and provision of services to victims and witnesses of crimes, and for related administrative costs. Moneys disbursed to other 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. The Director may award moneys to public entities and not-for-profit organizations who provide specific direct services to victims and witnesses.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).
Rewrote the section.

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 allocation of moneys from the Victim and Witness Advocacy Fund to the county Offices of Victim-Witness Advocacy and other public entities pursuant to N.J.S.A. 52:4B-43.1b and shall govern the determination of public entities and not-for-profit organizations as eligible to apply for awards from a

grant program to provide direct services to victims and witnesses of crimes pursuant to N.J.S.A. 52:4B-43.1c.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Rewrote the section.

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,” promulgated pursuant to 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;
9. Financial services; or
10. Medical testing pursuant to N.J.S.A. 52:4B-44(c).

“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 nonprofit tax exemption, under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)), providing direct services to victims or witnesses of crimes.

“Other public entity” means any law enforcement agency within any public corporation or political subdivision of this State or agency of local government of this State deemed eligible to receive funding for the implementation of the Attorney General Standards.

“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.

“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.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

In “Attorney General Standards”, inserted “promulgated pursuant to” preceding “N.J.S.A.”; in “Direct services”, added 10; in “Not-for-profit organization”, inserted “, under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)),”; added “Other public entity”; and deleted “Qualified”.

SUBCHAPTER 2. ELIGIBILITY CRITERIA

13:78-2.1 Eligibility criteria

Applicants for funding must demonstrate that they are a public entity or not-for-profit organization providing direct services. Eligibility will be determined pursuant to the criteria set forth at N.J.S.A. 52:4B-43.1c. Eligibility of a public entity or not-for-profit organization shall be determined by the Director, based upon the information contained in the annual application for money (N.J.A.C. 13:78-3.1).

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

13:78-3.1 Annual application for moneys

Public entities and not-for-profit organizations which meet eligibility requirements shall submit an annual application, on forms prescribed by the Director, for moneys from the Victim and Witness Advocacy Fund. Application forms and instructions may be obtained from the State Office of Victim-Witness Advocacy and shall be available when the Notice of Availability of Funds is published in the New Jersey Register. Application forms and related materials shall be completed, in full, and returned to the Director no later than the close of business on the due date indicated on the application. The Director reserves the right to request oral presentations and/or additional information from applicants and to conduct pre-award surveys with any applicant. Applicants shall comply with all requirements in this rule and submit an application by the due date provided in the Notice of Availability of Funds.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).
Rewrote the section.

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-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 shall determine the formula periodically, based upon the needs of identified victim populations throughout the State.

3. The Director may allocate additional funding to other eligible public entities and for special projects or other purposes over and above the regular allocation as the Director deems appropriate for implementing the Attorney General Standards.

4. After the allocation of moneys to the State Office of Victim-Witness Advocacy, the county Offices of Victim-Witness Advocacy and other eligible public entities, the Director may allocate moneys for a grant program for

direct services to crime victims based upon the availability of funds.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).
Rewrote the section.

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

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

(b) In disbursing moneys to the county Offices of Victim-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-Witness Advocacy in that county, 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 submit a certification executed by each of the following county officials: the county prosecutor; the chief executive or chief appointed official; the chief financial officer; and the freeholder director or president. The certification shall state that the moneys allocated from the Fund will be expended solely for the development, provision and/or enhancement of services to victims and witnesses in accordance with legislative mandates or the Attorney General Standards, and related administrative and training costs.

3. Each county prosecutor shall certify that money allocated from the Fund will be expended within the State Fiscal Year of the allocation. Any unexpended balances at the end of the State Fiscal Year are subject to return to the State. Failure to expend allocated funds may result in reduction of future allocations.

4. 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-Witness Advocacy. If the county governing body appropriates an amount to the county prosecutor which differs from the original budget request, the Director shall modify the disbursement authorized accordingly.

5. 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 allocated pursuant to N.J.S.A. 52:4B-44b and 52:4B-45, and shall make recommendations to the Director concerning the allocation 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 regular allocation 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.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

In (a), substituted "use" for "transfer"; and rewrote (b).

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 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 disburse funds to 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.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Substituted "disburse" for "distribute" in the second sentence; and deleted references to municipalities throughout.

13:78-5.4 Disbursement of moneys to eligible public entities and eligible 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 public entity and each eligible 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 public entities and eligible 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 public entities and eligible not-for-profit organizations who are awarded grants until all fiscal reporting requirements are met.

Amended by R.1998 d.587, effective December 21, 1998.
See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

In (c), inserted "who are awarded grants" following "organizations"; and deleted "qualified" following "eligible" throughout the section.

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., any rules promulgated and adopted thereunder, and any other controlling State or local laws or ordinances.

Amended by R.1998 d.587, effective December 21, 1998.

See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Inserted "any rules promulgated and adopted thereunder," preceding "and any other" at the end.

13:78-5.6 Notification of allocation and awards

(a) The Director shall notify county prosecutors of allocations to county Offices of Victim-Witness Advocacy in the form of a letter.

(b) The Director shall notify county prosecutors applying for additional funds over and above the regular allocation, other public entities, eligible public entities and eligible 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 by letter.

(c) In a notification of an award, the Director shall include an agreement which shall be executed and returned to the Director before any moneys can be disbursed.

(d) In addition, the Director shall publish a public notice in the New Jersey Register listing all awards made for a particular SFY as well as all allocations to county Offices of Victim-Witness Advocacy.

Public Notice: Awards for 1994-1995 fiscal year.

See: 27 N.J.R. 4019(a).

Amended by R.1998 d.587, effective December 21, 1998.

See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Added a new (a); recodified former (a) through (c) as (b) through (d).

Public Notice: Awards for State FY 1999.

See: 32 N.J.R. 1086(a).

SUBCHAPTER 6. USE OF FUND DISBURSEMENTS

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

Moneys from the Fund which are disbursed 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.

Amended by R.1998 d.587, effective December 21, 1998.

See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Substituted "disbursed" for "distributed" in the first sentence.

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

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

Amended by R.1998 d.587, effective December 21, 1998.

See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

Substituted "disbursed" for "distributed" preceding "pursuant to".



SUBCHAPTER 7. ACCOUNTING AND AUDIT

13:78-7.1 Accounting, reporting and audit

(a) Any county prosecutor, other public entity, or eligible 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 public entity shall submit to the Director, a quarterly report, as well as an annual report at the end of each State Fiscal Year identifying, separately, all receipts, expenditures and unexpended balances of mon-

eys 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 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 not-for-profit organization shall submit to the Director, on forms provided by the Director, a quarterly report, 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 or randomly audit any of the records referenced in this subchapter.

Amended by R.1998 d.587, effective December 21, 1998.

See: 30 N.J.R. 3422(a), 30 N.J.R. 4385(b).

In (a), substituted "quarterly" for "monthly" in the second sentence; in (b), inserted "to the Director" following "shall submit" and substituted "quarterly" for "monthly" in the second sentence; in (c), inserted "or randomly" following "periodically"; and deleted "qualified" following "eligible" throughout the section.