GENERAL PROCEDURES OF THE
POLK COUNTY BAR ASSOCIATION
ATTORNEY FEE ARBITRATION COMMITTEE

I. PREHEARING PROCEDURES

Inquiries concerning the Polk County Bar Association Attorney Fee Arbitration Committee (Fee Arbitration Committee) come to the Chairperson and members of the Committee through various sources. Frequently, referrals are made by the Iowa State Bar Association, the Polk County Bar Association Grievance Committee, or individual attorneys.

The Fee Arbitration Committee is composed of fifteen (15) members, each of whom is a practicing attorney and a member of the Polk County Bar Association. All Committee members maintain the necessary forms for the processing of a Complaint, which include:

a) the Complaint Form;
b) the Stipulation and Agreement to Submit to Arbitration;
c) the Rules of the Polk County Bar Association Attorney Fee Arbitration Committee; and
d) a statement of the General Procedures of the Fee Arbitration Committee (this document).

Upon request, any member of the Committee will transmit the Complaint Form, Stipulation and Agreement, Rules, and General Procedures to an interested party.

All Complaints must be filed with the Chairperson of the Fee Arbitration Committee at the following link: https://www.pcbaonline.org/community-services/attorney-fee-arbitration/attorney-fee-arbitration-complaint-form

Upon receipt of a Complaint and the signed Stipulation and Agreement to Submit to Arbitration from a client, the Chairperson transmits the Complaint and the Stipulation, with a copy of the Rules, to the respondent-attorney. The attorney will have thirty days to provide a written response or defense to the Chairperson. If any written response to the Complaint is received, a copy must be transmitted to the client by the Chairperson. Once the Chairperson has received the signed Stipulation and Agreement to Submit to Arbitration from both the client and the respondent-attorney, the matter is ready for assignment to hearing.

The client and the attorney are strongly urged to communicate and see if the fee dispute can be resolved between themselves. It is appropriate for either the client or the attorney to contact the other to see if some resolution, before a hearing, can be arranged. Because

these communications are in the form of settlement attempts, positions taken and offers made are not normally admissible in any arbitration hearing.

Prior to hearing, it is not the role of any member of the Committee, including the Chairperson, to review any Complaint or defense on its merits. Prior to hearing, the Chairperson's responsibility is limited to coordinating the necessary documents and scheduling the matter for hearing.

Hearings are scheduled on a readiness basis, that is, when there are a sufficient number of cases ready, usually three (3), the Chairperson will attempt to determine the availability of the parties and will schedule the hearing site. The Committee may hold hearings electronically, at the Iowa State Bar Association offices at 521 East Locust, Des Moines, Iowa, or another site to be determined by the Committee.

Parties are given the opportunity to inform the Chairperson by a specified date of their unavailability for a proposed hearing date, and if they do so, the matter will be deferred to the next scheduling. Failure by a party to inform the Chairperson of his or her unavailability by the specified date will result in the hearing occurring as scheduled unless the Chairperson determines, in his or her discretion, that there is good cause for the failure to advise the Chairperson of the individual's unavailability.

Hearings are scheduled before a panel of the Committee, normally consisting of five (5) members and the Chairperson. However, the Rules of the Fee Arbitration Committee allow for hearings before as few as three (3) members.

Prior to a scheduled hearing, all members of the designated panel of the Committee to hear a specific Complaint receive and review all documentary materials filed by both parties prior to the hearing. All documentary materials filed with the Fee Arbitration Committee are confidential and are not made available to anyone but the parties and members of the panel designated to hear the matter.

If an attorney who is the subject of a Complaint filed by a client refuses to enter into arbitration by signing the Stipulation and Agreement to Submit to Arbitration, the Fee Arbitration Committee will take no further action. In addition, if prior to the filing of a Complaint, the fee is the subject of a filing in the District Court or Small Claims Division thereof, the Fee Arbitration Committee has no jurisdiction. However, if the district court or small claims matter is dismissed without prejudice, the Fee Arbitration Committee will then take jurisdiction.

Other than providing copies of the Complaint and any response, there is no cost assessed to any party for any hearing before the Fee Arbitration Committee. Committee members are not compensated for their time.

Pursuant to the Rules of the Polk County Bar Association Attorney Fee Arbitration Committee, jurisdiction of the Fee Arbitration Committee is limited to Complaints filed against members of the Polk County Bar Association. However, upon application, the Fee Arbitration Committee does hear Complaints against attorneys who are not members of the Polk County Bar Association. Arrangements for such hearings are normally made

through the Chairperson, who would make certain a sufficient number of members of the Committee are available and are willing to hear a case involving an attorney who is not a member of the Polk County Bar Association. Such cases have been heard in the past and normally involve attorneys from counties other than Polk County.

II. HEARING PROCEDURES

Hearings are scheduled for approximately 45 minutes each unless previous arrangements have been made with the Chairperson for a longer period of submission. Hearings are informal and witnesses are permitted as are representatives. However, the hearings are conducted in a way that allows most clients to present their Complaint without the aid of an attorney or other representative.

Testimony can be taken when necessary by telephone. Prior arrangements, at least one week in advance of the hearing, should be made with the Chairperson if telephone testimony of a party or witness is necessary.

At the commencement of the hearing, panel members will identify any prior involvement they may have had with either party and when appropriate, will decline to sit as a panel member on a particular Complaint.

The hearing process involves the client proceeding first, presenting his or her Complaint in verbal form. The respondent-attorney may question the client following the client's presentation. Any member of the panel may ask the client questions concerning his or her Complaint. The respondent-attorney is then asked to present his or her defense and is subject to questioning by the client as well as questioning from panel members. Each party is allowed to briefly summarize their position prior to the conclusion of the hearing. Clients are asked to be specific about the relief they seek.

Confidential written decisions issue within two to three weeks of the hearing from the office of the Chairperson. Pursuant to the Stipulation and Agreement to Submit to Arbitration, the decision is final and binding. Grounds for any appeal are found in Chapter 679A of the Code of Iowa (2020).

In the event of an award that involves a respondent-attorney repaying a fee to a client, in whole or in part, the Ruling of the Fee Arbitration Committee is not a judgment, and the Fee Arbitration Committee is not involved in the collection thereof. If necessary, a client must proceed pursuant to Chapter 679A of the Iowa Code (2020), and reduce the arbitration award to a judgment that is then subject to collection.