

National Council for Teacher Education

LEGAL GUIDELINES

The policy for empanelment of Advocates, duties of Counsels, payment of fees and related matters which was issued by NCTE on 28.6.2011 has been revised and the salient features of NCTE Legal guidelines are as follows:

I) Category of Court Cases

- a) **Important Matters:** Cases where the judgement will affect the NCTE Act, Rules or any regulations and where any unfavorable decision may have serious consequences.
- b) **Ordinary Matters:** Cases where the petitioner has impleaded NCTE as one of the respondents and NCTE has only to furnish certain facts based on regulations to the Court.
- c) **Proforma Matters:** Cases where NCTE is impleaded as one of the respondents, but no relief is sought from it.

II) Eligibility, Appointment and Empanelment of Legal Counsels for Supreme Court of India, Various High Courts and Other Lower Courts


A panel will be drawn by the NCTE (HQ) for the legal counsels for Hon'ble Supreme Court of India, various High Courts and other courts as per criteria given below:

The counsels engaged by NCTE will fall into two categories viz:-

- (a) Standing Counsel (s)
- (b) Panel Counsel (s)

Qualifications of Standing Counsel:

- (a) **Standing Counsel:** Eligibility criteria for appointment as Standing Counsel, a person should:
 - (i) Be enrolled/registered as an advocate with the Supreme Court of India or with the High Court, as the case may be.
 - (ii) For engagement in Supreme Court the Advocate must be an Advocate on Record.
 - (iii) Have minimum experience of **ten years** of handling Civil/Criminal/service matter cases. Preference will be given to the counsels who have dealt earlier with matters pertaining to academic/education institutions and statutory bodies.
 - (iv) Should have at least 50 appearances before the Supreme Court or the respective court for which the advocate is seeking empanelment, in the calendar year preceding the application for empanelment with NCTE Eg. A person must have had 50 appearances in 2016 if he is applying for empanelment in 2017.
- (b) **Panel Counsel:** Eligibility criteria for appointment as Panel Counsel, the person should:
 - (i) Be enrolled/registered as an advocate with the High Court or Supreme Court, as the case may be.
 - (ii) An appointment as an Amicus Curiae by the Supreme Court or the High Court, shall be given due weightage.


28/12/17

- (iii) Have minimum experience of **five years** of handling Civil/Criminal/service matter cases. Preference will be given to the counsels who have dealt earlier with matters pertaining to academic/education institutions and statutory bodies.
- (iv) Should have at least 50 appearances before the Supreme Court or the respective court for which the advocate is seeking empanelment, in the calendar year preceding the application for empanelment. Eg. A person must have had 50 appearances in 2016 if he is applying for empanelment in 2017.

Appointing Authority:

A. For Supreme Court of India:

- (i) Appointment and removal of Advocates will be made by NCTE (HQ) with the approval of the Chairperson, NCTE following due procedures.

B. For High Courts and other Courts:


- (i) Appointment and removal of Advocate will be made by NCTE(HQ) with the approval of Chairperson, NCTE following due procedures.

Terms for appointment:

The terms for appointment of the Counsel would be for a period of one year and extendable on year to year basis from the date of appointment. The appointment of the Counsels may be terminated at any time by the appointing authority, without assigning any reason.

III) Standing/Panel Counsel shall perform the following duties:

- (i) Represent NCTE before the Supreme Court and High Court and other judicial bodies.
- (ii) Provide legal advice to NCTE on civil, criminal, service, educational, regulating and such other matters arising in the course of administration of NCTE as are referred to him/her including:
 - (a) Examination and drafting of legal documents;
 - (b) Drafting of applications, petitions etc., to be filed in various courts of law and file in the respective Courts after vetting by NCTE(HQ)/Regional Director as the case may be.
 - (c) Prompt removal/curing of defects in appeals/petitions filed; as may be pointed out by the registry with the approval of NCTE(HQ)/Regional Directors.
- (iii) Apply for the copy of judgment from the court in cases attended by him/her and supply the copy of judicial pronouncements at the earliest but not later than 10 days from the date of order (excluding the time taken by the court in preparation of the copy);
- (iv) If required, render all assistance to Special or Senior Counsel engaged in particular cases before the Supreme Court, High Courts and other judicial bodies;
- (v) Keep NCTE informed and updated on all important developments in the designated cases, dates of hearing, order of the court on the date of its pronouncement supplying copy of judgment etc;
- (vi) Furnish monthly statement about the cases represented by him/her before the Supreme Court, High Court or any other authority and their outcomes.


28/12/17

- (vii) Perform such other duties of legal nature which may be assigned to him/her by NCTE.
- (viii) When any case attended to by him/her is decided against the NCTE, will give considered opinion regarding the advisability of filing an appeal from such a decision preferably within a week after receiving the uncertified copy of order.

IV) Duties of Standing Counsel:

The Standing Counsel will receive the Court notices/petitions on behalf of NCTE and avoid any ex parte decision. The notices received by the Standing Counsel will be sent to the respective NCTE (HQ)/Regional Directors as applicable and the assignment of case will be made by the Competent Authority to the Standing/Panel Counsel. A monthly retainer-ship of Rs.5000/- which includes clerkage, office rent and postage and other establishment charges will be paid to the Standing Counsels for the following Courts only:

- a) Supreme Court of India
- b) Delhi High Court
- c) Allahabad High Court
- d) High Court of Rajasthan, Jaipur
- e) High Court of Madhya Pradesh, Jabalpur
- f) High Court of Madras, Chennai
- g) High Court of Calcutta
- h) Gauhati High Court, Gauhati including North Eastern States
- i) High Court of Punjab & Haryana, Chandigarh
- j) High Court of Andhra Pradesh, Telangana and Hyderabad
- k) High Court of Karnataka, Bengaluru

V) Payment of legal fees

The payment of Fees to the Legal Counsels of NCTE will be made as per the following:-

(A) Legal Fees payable to the Panel Counsel of Supreme Court of India:

SL.No.	Item of work	Fees
(i)	Appearance	Rs.4500
(ii)	Final Appearance	Rs.9000
(iii)	Preparation and filing of Counter Affidavit rejoinder Draft SLP Misc. applications (including mentioning of the case) Caveat/Clearance/obtaining the number and taking date for hearing, written/submission, non-effective hearing limited to 5 subject to maximum of 5 hearings in a case	Rs.3000
(iv)	Conference charges (per Conference/day)	Rs.2000

[Handwritten signature]
28/12/17

(v)	Out of Headquarter (daily fee for the days of his/her absence from HQ)	Rs.9000
(vi)	Conveyance charges for performing local journey while outside Headquarter	Rs.1500
(vii)	All defended admission matter (SLP/TP and writ petitions and other miscellaneous matter for admission) per case per day	Rs.4500/-

(B) Legal Fees payable to the Panel Counsel of High Court as well as of CAT:

Sl.No.	Item of Work	Fees
(i)	Per appearance including interim motions, notices, appeals, Leave Application, Arbitration, Company matters, Criminal Revision and effective hearing per day.	Rs.2250.00
(ii)	Final Appearance	Rs.3750.00
(iii)	Preparation and filing of Counter Affidavit in High Courts and other Courts	Rs.3000.00
(iv)	Preparation and filing of Additional Affidavit, Conference charges non-effective hearing limit to maximum 5 hearings in a case, chamber applications, written opinion and written advice including advice on evidence (including consultation)	Rs.1000.00

VI) Misc. expenditure

As per actual (Photocopy, typing, Court fee, attestation etc.)

VII) Legal Opinion

For legal opinion on various issues related to the NCTE an amount of maximum of Rs. 5000.00 will be paid for each of the opinions. In exceptional cases, the fee for legal opinion tendered by a senior advocate will be as mutually agreed upon.

VIII) Connected/tagged cases

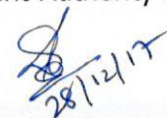
Rs.600/- in the Supreme Court of India and Rs. 400/- in High Courts will be paid.

IX) Out of Headquarters

If the Counsel is required to go out of the Headquarters in connection with the Court case, he will be entitled to the TA/DA as admissible to the Class-I officer of the Govt. of India having Level 14, pay band 37400-67000 (As per the acceptance of the report of Seventh Pay Commission).

X) Special Assignments

Advocates engaged on specific cases with the approval of the Competent Authority will be paid legal fee as payable to empaneled Advocates in the respective Courts.

 28/12/17

XI) Assignment of Cases to Legal Counsels for Supreme Court of India, High Courts and Other Lower Courts.

- a) **Supreme Court of India:** Engagement of advocates and assignment of the cases will be made by NCTE(HQ) with the approval of Member Secretary, NCTE from the panel of advocates prepared for the purpose. For important cases, Senior Advocates/ASG will be engaged with the approval of Chairperson, NCTE.
- b) **High Courts of India and other courts:** : Engagement of advocates and assignment of the cases will be made by Member Secretary for Delhi High Court and concerned Regional Directors for the other Court under their respective jurisdiction out of the panel prepared by NCTE(HQ).

XII) Filing of Vakalatnama and Defending the cases on behalf of NCTE (HQ) and Regional Committees.

- a) **Cases where NCTE(HQ) is a party along with concerned Regional Committees:** Regional Director concerned will defend the case also on behalf of NCTE(HQ) and file the Vakalatnama. Specific information will have to be obtained from the NCTE(HQ) for filing the affidavit, if any. Information about the latest status of the case invariably be sent to NCTE(HQ).
- b) **Cases where Regional Committee is a party and NCTE(HQ) is not a party:** Regional Director concerned will defend the case and file the Vakalatnama with intimation to NCTE (HQ). Specific information, if any, will have to be obtained from the NCTE(HQ) for filing the affidavit, if any.
- c) **Cases where NCTE(HQ) is a party and Regional Committee is not a party:** Regional Director concerned will defend the case on behalf of NCTE(HQ) and file the Vakalatnama in the Courts under their jurisdiction. Specific information will be obtained from the NCTE(HQ) for filing the affidavit, if any. For the cases at Delhi/New Delhi, NCTE(HQ) will defend the same and file the Vakalatnama accordingly.

Note: The cases pertaining to the service matters of the NCTE Staff before various Courts at New Delhi will be defended by NCTE(HQ) after taking the required information from the concerned Regional Committee, if any and for other Courts the respective RD will defend the case.

XIII) Filing of Appeals before Division Benches of Hon'ble High Courts and Hon'ble Supreme Court of India by NCTE and its Regional Committees:

In cases where the directions are against the NCTE Rules, Regulations, Norms and Standards, an action shall be taken to file an appeal against such directions:

- a) For filing of Appeals before Supreme Court of India, approval of Chairperson, NCTE is required.
- b) For filing of Appeals before the High Courts and other Courts approval of Member Secretary, NCTE is required.

XIV) General

- a. No fee will be allowed in cases which were got adjourned by the Counsel without the directions from the NCTE or on his personal grounds.

 28/12/17

- b. These rates will also be applicable to the lawyers engaged by Regional Offices of the NCTE. Only one set of fee will be entitled on behalf of all the parties involved from NCTE point of view or UOI if the Counsel asked to appear for the same by UOI, Ministry of Human Resource Development.
- c. If a senior advocate/lawyer of extraordinary repute is engaged to defend/contest the case for the Council, his charges will be negotiated in advance and prior approval of the NCTE(HQ) will be taken before such engagement.
- d. No Conference/Opinion charges will be paid if decision/meeting is held with lawyer in a matter related to on-going case in any of courts in which that lawyer is engaged as Counsel of NCTE. However, if he is called to NCTE Office for discussion/meeting/conference, he will be entitled to claim TA/DA as applicable to the officers of NCTE at the level of Member Secretary.
- e. A Counsel will have right to private practice, which should not, however, interfere with the efficient discharge of his duties as a Counsel for the NCTE/Government of India. A Counsel shall not advise any party in or accept any case against the NCTE/Govt. of India in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the NCTE/Govt. of India
- f. The Advocate shall not advise any party or accept any case against the NCTE in which he/she has appeared or is likely to be called upon to appear for or advise which is likely to affect or lead to litigation against the NCTE. In case any Counsel who had handled the case filed against NCTE may recuse himself/herself from dealing the same case on behalf of NCTE.
- g. If the Advocate happens to be a partner of a firm of lawyers or solicitors, it shall be incumbent upon the firm not to take up any case against the NCTE in any Court of Law/Tribunal/Commission or any case arising out of those cases e.g. appeals and revisions;
- h. In cases where on the request of the Ministry of HRD, interests of UOI have also to be protected, no extra fees shall be paid to the advocate to watch and safeguard the interests of Ministry of HRD or UOI.
- i. The Counsel may also resign from the Council by serving one month's notice.
- j. NCTE is free to engage any advocate of its own choice and an empaneled Advocate shall make no claim that he/she alone should be entrusted with NCTE's legal matter(s).


28/12/17