

## PART 35—CHILD WITNESSES

## § 35.1. Development of Methods to Reduce Trauma to Child Witnesses

The Chief Administrator of the Courts shall consult with individuals, agencies and groups concerned with child psychology and child welfare and, based upon that consultation, shall develop and implement methods and techniques designed to reduce significantly the trauma to child witnesses likely to be caused by testifying in court proceedings. The Chief Administrator shall periodically review such methods and techniques to ensure their continuing effectiveness.

## § 35.2. Training and Education Programs Concerning Treatment of Child Witnesses

The Chief Administrator of the Courts shall include, as appropriate, in education and training programs offered to judges and nonjudicial personnel, programs concerning the social and psychological stages of child development to ensure that, where appropriate, courtroom procedures, including the questioning and treatment of a child witness by the parties, are adopted or modified to protect the child from emotional or psychological harm.

## PART 36—APPOINTMENT OF FIDUCIARIES

## § 36.1. Appointment of Fiduciaries

(a) All appointments of guardians, guardians *ad litem*, conservators, committees of the incompetent or patient, receivers and persons designated to perform services for a receiver shall be made by the judge authorized by law to make the appointment upon evaluation by that judge of the qualifications of candidates for appointment. The appointing judge may select the appointee from the list of applicants established by the Chief Administrator of the Courts pursuant to section 36.2(a) of this Part. Should the appointing judge decide that a person or institution not included on that list of applicants is better qualified for appointment in a particular matter, the judge may appoint that person or institution, and in such instance shall place the reasons for such appointment and the qualifications of such appointee on the record. The appointing judge shall be solely responsible for determining the qualifications of any appointee.

(b) No person shall be appointed who is a relative of, or related by marriage to, a judge of the Unified Court System of the State of New York. This provision shall apply only to known relatives of judges and not to the professional associates of those relatives.

(c) No person or institution shall be eligible to receive more than one appointment within a 12-month period for which the compensation anticipated to be awarded to the appointee exceeds the sum of \$5,000, except that where the appointing judge determines that unusual circumstances of continuity of representation or familiarity with a case require an appointment for which compensation would exceed that permitted by this subdivision, the judge may make such appointment and must set forth in writing the reason for the exception. Each prospective appointee must disclose to the appointing judge all previous appointments received within the preceding 12 months.

(d) A prospective appointee whose appointment is subject to these rules shall certify in writing to the appointing judge, prior to the acceptance of the appointment, that the appointment will not be in violation of these rules.

(e) The provisions of this section shall not apply to:

(1) appointments of law guardians pursuant to section 243 of the Family Court Act or guardians *ad litem* pursuant to section 403-a of the Surrogate's Court Procedure Act;

(2) the appointment of a fiduciary without compensation; and

(3) the appointment of any of the following:

(i) a relative of, or person having a legally recognized duty or interest with respect to the affairs of, the infant, ward, incompetent, conservatee, decedent or beneficiary of an estate;

(ii) a guardian *ad litem* nominated by an infant of 14 years of age or over;

(iii) a nonprofit institution performing social services;

(iv) a bank or trust company as a depository for funds;

(v) a public administrator or a public official vested with the powers of an administrator;

(vi) a person or institution whose appointment is required by law;

(vii) a physician whose appointment as a guardian *ad litem* is necessary where emergency medical or surgical procedures are required.

## § 36.2. Lists of Available Applicants

(a) The Chief Administrator of the Courts shall provide for the application by persons and institutions seeking appointment as guardians, guardians *ad litem*, conservators, committees of the incompetent or patient, receivers and persons designated to perform services for a receiver. The Chief Administrator shall assemble such applications and shall maintain and make available for use by the appointing judge lists of applicants for appointment.