

Standard Operating Procedures for AFSA's Richard C. Scissors Legal Defense Fund

I. History and Purpose

A. In 2007, AFSA created a Legal Defense Fund (the Fund) and named it in honor of longtime AFSA staff member and retired Foreign Service Officer Richard C. Scissors.

B. Pursuant to Chapters 10 and 11 of the Foreign Service Act of 1980, the AFSA Bylaws, and Governing Board resolution, AFSA's Labor Management staff provides legal and grievance counseling, which includes assisting members in formal grievance proceedings, security and inspector general investigations, discipline proceedings, EEO cases, and security clearance proceedings to members of AFSA.

C. On occasion, AFSA is unable to provide the time, attention, or expertise that is required to assist a member. In addition, AFSA itself may on occasion need to obtain outside legal expertise. Consequently, AFSA established the Legal Defense Fund.

D. The Fund is sustained by donations that are separate from AFSA membership fees. AFSA solicits donations for the Fund on a periodic basis. Contributions to the Fund are not tax deductible.

II. Criteria for Assistance from the Fund

A. The Fund may provide financial assistance to an AFSA member who is involved in a legal matter that:

- i. Has potentially far-reaching significance to members of the Foreign Service; or
- ii. Involves issues of institutional importance to the Foreign Service; and
- iii. Exceeds the case management capacity of the AFSA Labor Management Staff and/or
- iv. Requires an outside attorney with expertise in a particular area of law not available in the AFSA Labor Management Staff.

B. In addition, AFSA's Labor Management Office may seek the Fund's assistance to retain outside legal expertise in legal matters that meet the criteria outlined above. If the Governing Board decides to pursue 501(c)(3) status for the Fund, it may draw from the Fund to cover any associated research and filing expenses.

III. Eligibility for Assistance from the Fund

A. All dues-paying regular members as defined in AFSA's Bylaws (i.e., current or former members of the Foreign Service as defined by Sections 103 (paragraphs 1 to 5) and 202 of the

Foreign Service Act of 1980, or successor legislation) will be eligible to request and, if approved, receive financial assistance from the Fund.

B. Financial assistance may be available to those cases that, in AFSA's sole discretion, meet the criteria outlined in II, above.

C. Financial assistance will be limited to those cases that relate to the member's performance of his or her official duties or that arise from the member's duty or status as a current or former Foreign Service employee.

D. Financial assistance from the Fund normally will not be available to accommodate requests made by members retroactively for legal fees that have already been incurred.

IV. Applications

A. An AFSA member seeking financial assistance from the Fund must submit to the AFSA Labor Management Office a petition explaining how the case would or does have a substantial impact on active duty or retired members of the Foreign Service or why the issue is of institutional importance to the Foreign Service.

B. The member should also provide detailed documentation of his or her case such as documentation relating to the proposed action, the employee's written response, the agency's final decision, or a copy of any appeal, grievances, or court pleading, if appropriate.

C. Submission of a petition does not relieve the member of the responsibility to meet all administrative or court deadlines in his or her case.

D. Submissions shall be emailed to AFSA's Labor Management Office at afsa@state.gov or mailed or delivered to AFSA's Labor Management Office in Room 2805, HST, Department of State, Washington, DC, 20520. For questions about the Fund, please email afsa@state.gov.

E. AFSA's Labor Management Office will forward all applications for Fund financial assistance to the AFSA Legal Defense Fund Committee (the Committee).

V. Procedure for Evaluation of Requests from the Fund

A. The AFSA Governing Board will make the final decision on any distribution from the Fund, based upon a recommendation from the Committee.

B. The Committee shall be appointed by the Governing Board and will be comprised of five members, including a chairperson who shall be a currently serving member of the Governing Board, and four other members of AFSA (who may be members of the Governing Board) selected from at least two constituencies. The chairperson shall normally be appointed for the duration of the Governing Board term, at the discretion of the Governing Board. The AFSA General Counsel or Deputy General Counsel shall serve as a staff member to the Committee.

C. The Committee will review each request for assistance from the Fund to determine if the request meets the criteria for assistance from the Fund in Section II, the eligibility requirements in Section III, and other pertinent aspects of the request. The AFSA Director of Finance will provide a current financial report of the Fund to the Committee to facilitate its review of the request for assistance.

D. As funds are limited, the Committee's recommendation should consider the member's prospects of prevailing on the merits as well as the importance of the issue to the Foreign Service.

E. To be recommended for approval, a request for assistance must receive a majority of the five votes from the members of the Committee. The Committee will forward recommendations for approval to the Governing Board under cover of a memorandum providing its analysis and conclusions. The Governing Board shall make the final decision to approve or deny the recommendation.

F. If the Committee unanimously recommends disapproval of an application, that shall constitute the final decision. The member may appeal that decision to the Governing Board. If one or two Committee members recommend approval, the Committee shall forward to the Governing Board a memorandum explaining both sides of the issue. The Governing Board will then make the final decision.

G. Once the final decision has been made, the Chairman of the Committee or AFSA's General Counsel shall advise the applicant whether the petition for assistance has been approved or disapproved and, if approved, the amount of assistance that will be provided.

H. AFSA's basis and rationale for approving or not approving a request is not binding precedent for subsequent requests. Each request for assistance shall be considered separately and independently from all other requests.

I. The Governing Board's decision is final and is not subject to appeal.

VI. Administration of Financial Disbursement

A. Subject to the availability of funds, the Fund will normally not allocate more than \$5,000 to an individual requestor. The Governing Board may waive this limit in appropriate cases.

B. Financial assistance from the Fund will not be made available directly to the applicant. It will be distributed directly to the applicant's attorney of record upon presentation of appropriate billing documentation to the General Counsel.

C. The Chairperson and General Counsel shall prepare an annual report for submission to the Governing Board for distribution to the AFSA membership via an appropriate AFSA publication or publications. The annual report shall provide the level of funds currently available in the Fund (provided by the Director of Finance) and may address the need for fund raising.

VII. Limits on Contributions for the Fund

A. Donations to the Fund will not be accepted from anonymous sources. The Fund will only accept donations from United States citizens, lawful permanent residents, and U.S.-headquartered organizations.

B. AFSA will ask the donors to confirm their citizenship status and provide the name of their employer.

C. Donations will normally be limited to \$10,000 per person/organization. Any donation or combination of donations from the same source above \$10,000 must be approved by the Governing Board.

Approved by the AFSA Governing Board on February 19, 2020