

Representing co-accused and witnesses in criminal proceedings



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A roster member shall not, without prior authorization as set forth in this Policy, acknowledge a certificate for a legally aided client where the roster member has previously represented, is representing, or intends to represent another individual accused in the same matter, either as duty counsel, through a certificate, or through a private or pro bono retainer.

Representing more than one co-accused

Roster members must seek LAO's prior authorization to act for more than one co-accused. LAO may authorize a roster member to act for more than one co-accused:

- a. if, in LAO's view, it is not feasible to have independent counsel available for each client on the date when the clients wish to resolve their charges; or
- b. if, in LAO's view, it is in the clients' best interest for a particular counsel to represent them.

Where LAO has authorized a roster member to act for more than one co-accused, the roster member shall, prior to acknowledging the certificate for the second co-accused:

- a. thoroughly explain the conflict or potential conflict and its implications to both clients; and
- b. require both clients to execute a waiver acknowledging and consenting to the co-representation despite any potential conflict of interest; and
- c. notify LAO of the co-representation and waiver upon acknowledging the certificate. Client waivers shall be provided to LAO upon request.

Witnesses

A roster member shall not knowingly acknowledge a certificate for a legally aided client where the roster member previously represented, currently represents, or intends to represent a witness in the matter to which the certificate pertains, or where the roster

member has had a relationship with a witness which could give rise to a conflict of interest.

Where a roster member has acknowledged a certificate and subsequently, upon review of disclosure or at any stage in the proceeding, becomes aware that they may be in a conflict of interest relative to a witness, the roster member shall immediately advise LAO. LAO will take steps it deems appropriate, which may include permitting the roster member to retain an agent, or cancelling the certificate.