

**REGULATIONS
FOR THE APPOINTMENT OF COUNSEL IN THE FOURTEENTH
JUDICIAL DISTRICT IN CASES UNDER THE INDIGENT
DEFENSE SERVICES ACT**

I. Preamble

Pursuant to Rule 1.5 of the *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level*, as set forth by the Indigent Defense Services Commission, the Public Defender for the Fourteenth Judicial District hereby promulgates the following *Regulations for the Appointment of Counsel in the Fourteenth Judicial District in Cases under the Indigent Defense Services Act*.

II. Purpose

The purpose of these *Regulations* is to provide for effective representation of indigent defendants and others entitled to appointed counsel at all stages of trial proceedings in the District and Superior Courts of the Fourteenth Judicial District.

III. Applicability

A. Generally

These *Regulations* apply to any criminal or civil case in the Fourteenth Judicial District in which a court has determined, pursuant to the laws of North Carolina, that a party is entitled to the appointment of counsel, except as provided herein. These *Regulations* govern the appointment of counsel for the following cases:

- (1) Criminal defendants
- (2) Juveniles alleged to be delinquent
- (3) Parents of juveniles in cases alleging abuse, neglect or dependency
- (4) Respondents in petitions for termination of parental rights
- (5) Persons alleged to be incompetent
- (6) Indigent defendants in civil child support enforcement cases for which the defendant is entitled to counsel
- (7) Minors requesting a judicial waiver of parental consent to an abortion
- (8) Persons responding to show cause orders for contempt of court
- (9) Persons who have been involuntarily committed to local mental health institutions

- (10) Defendants in non-capital Motions for Appropriate Relief in which the Court has found that sufficient grounds exist so as to entitle the defendant to a hearing
- (11) Persons found to be material witnesses by the Court
- (12) Respondents in proceedings for the provision of protective services according to Chapter 108A, Article 6, of the General Statutes
- (13) Defendants in hearings for revocation of parole at which the right to counsel is provided in accordance with the provisions of Chapter 148, Article 4, of the General Statutes
- (14) Respondents in proceedings for sterilization under Chapter 35, Article 7 (Sterilization of Persons Mentally Ill and Mentally Retarded) of the General Statutes
- (15) Persons against whom execution is being sought under Chapter 1, Article 28 of the General Statutes, and in any civil arrest and bail proceeding under Chapter 1, Article 34, of the General Statutes
- (16) Persons seeking a hearing on a petition for a writ of habeas corpus under Chapter 17 of the General Statutes
- (17) Any other person given the right to court appointed counsel under N.C.G.S. 7A-451(a) except as provided in B., below

Reference to the male gender shall be construed to include both male and female persons. Reference to the singular shall, as appropriate, be construed to include the plural.

B. *Exceptions*

(1) Pursuant to Rule 1.5(b)(2) of the *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level*, the Public Defender shall not be appointed to represent, and shall not assign counsel to represent, a juvenile alleged to be abused, neglected, or dependent. However, the court and the local guardian ad litem program may request the assistance of the Public Defender in preparing a list of attorneys qualified to serve in that capacity.

(2) In cases in which the defendant is charged with first-degree murder, an undesignated degree of murder, or an offense filed contemporaneously with or subsequently joined with such murder charges, the Court shall appoint the Office of Indigent Defense Services (IDS Office), which shall appoint counsel in accordance with the *Rules for Providing Legal Representation in Capital Cases*. However, the Court shall appoint the Public Defender in cases in which the defendant or respondent was 17 years of age or younger at the time of the alleged offense and is not eligible for the death penalty; in such cases, the Public Defender shall appoint an attorney from his office or a private attorney from the appropriate list.

(3) In cases in which a person is entitled to appointed counsel pursuant to G.S. 7A-451 with respect to appeal to the appellate division from an adverse ruling in the trial division, the Court shall appoint the Office of Appellate Defender, which shall appoint counsel in accordance with the *Rules for Providing Legal Representation in Non-Capital Criminal Appeals and Non-Criminal Appeals*. The only exception to this procedure is in cases in which a death sentence has been returned, where the appellate entries made by the Court shall reflect that appeal is taken by operation of law and that the Director of the IDS Office has appointed the Office of Appellate Defender. *See Rule 2B.2(a) of Rules for Providing Legal Representation in Capital Cases.*

IV. Appointment Procedures

A. *Appointment, Notice and Refusal of Cases*

Upon judicial determination that a person is entitled to appointed counsel, the case shall be appointed to the Public Defender for appointment of counsel. In accordance with Article V, below, if the Public Defender determines that his office is unable to handle the case, the Public Defender will assign the case to an attorney on the Indigent Appointment List. Appointment orders signed by the Public Defender shall be distributed to the Clerk of Superior Court and the Defendant. Attorneys will be furnished the Order of Appointments by facsimile and/or electronic mail. A list of all appointments shall be furnished to the District Attorney on a weekly basis.

An Attorney on the Indigent Appointment List may not refuse a duly appointed case.

B. *Dual Representation*

When a client is appointed an attorney from one list, and subsequently requires representation from another list, then dual representation is required. Attorneys with clients subject to dual representation have a duty to consult with one another regarding the best interests of their client. The attorney assigned from the lower numbered list shall request that the Court relieve him/her from the appointment in this case and appoint the attorney from the higher list if the attorney on the higher list is qualified by virtue of being on that list to handle cases from the lower numbered list.

C. *Withdrawal*

Once the Public Defender has issued an appointment order and filed it with the Clerk, only the Court may permit the appointed attorney to withdraw. If the appointed attorney has grounds to request a withdrawal, the appointed attorney must notify the Public Defender, prior to the Court's ruling, by transmitting to the Public Defender's

Office a copy of the written motion to withdraw, which motion shall request the Court to reappoint the Public Defender as counsel. If the Court allows a withdrawal, the Public Defender will then appoint new counsel pursuant to Rule 1.7(b) of the *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level*.

D. Conditions of Appointment

The Public Defender may set additional conditions of appointment, including but not limited to requiring attorneys appointed under these *Regulations* to:

1. attend training and/or continuing legal education in the legal area encompassed by the list to which the attorney is assigned.

V. Assignment of Cases to the Public Defender

- A. Pursuant to Rule 1.5(b) of the *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level*, the Public Defender shall be appointed by the Court as counsel for all persons enumerated in Article III of these *Regulations* where the defendant or respondent has requested counsel or is otherwise entitled to appointed counsel.
- B. Pursuant to N.C.G.S. 7A-452(a), the Public Defender may tentatively assign himself or an Assistant Public Defender to represent an indigent person who is incarcerated in the Durham County Jail or the Durham County Youth Home and who has not retained private counsel. This appointment is subject to later approval by the Court.
- C. Where the Public Defender is appointed as counsel for parents in abuse and neglect cases and is unable to handle the case, the Public Defender shall appoint a private attorney within twenty-four (24) hours of notification by either the Clerk of Court or the County Attorney.
- D. In all other matters, the Public Defender will follow the following assignment policies unless, pursuant to Rule 1.5(d)(1) of the *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level*, he deems it proper in the furtherance of justice to appoint as counsel a lawyer who is not next in sequence on the List. If the Public Defender appoints an attorney out of sequence, the Public Defender shall record the reasons for doing so and shall return to the regular sequence for the next appointment. In exceptional circumstances only, recorded by the Public Defender, the Public

Defender may appoint an attorney who is not on one of the Lists with that attorney's consent.

1. In child support enforcement actions, the Public Defender will attempt to assign one attorney to all cases arising in the same session of court. In the event there are more than five defendants assigned counsel in one session of court, the Public Defender will assign five cases to an attorney on a rotating basis. The term session is defined to mean the period of time the court is being held during either the morning or afternoon, but not both.
 2. In incompetency proceedings, the Public Defender will appoint the same attorney to all proceedings arising in the same calendar week.
 3. When the Public Defender is appointing counsel from either List 1 (Misdemeanors), List 2 (Misdemeanors and Felonies), or List 3 (Misdemeanors and All Felonies), the Public Defender will appoint three cases to an attorney before proceeding to the next attorney on the list. Attorneys who have requested that they receive only felony cases shall be appointed one case at a time. The Public Defender may pass over the name of any attorney known to be unavailable, or in his discretion, where justice so requires.
 4. When a defendant is already being represented by an attorney on other appointed cases, the Public Defender will appoint the same attorney as long as that attorney is on the appropriate list.
 5. In assigning cases to members of the bar, the Public Defender shall consider the nature of the case and the skill of counsel, to the end that all indigent persons are adequately represented.
- E. In determining whether the Public Defender is able to handle a case, the Public Defender shall take into consideration the existence of any actual or potential conflict. In unusual situations, the Public Defender shall consult with the appropriate official of the North Carolina State Bar before making such a decision. If the Public Defender finds that his office is unable to handle a case because of a conflict, the Public Defender shall assign the case to private counsel in accordance with the regular rotation schedule in these regulations and any criteria adopted by the Office of Indigent Defense Services.
- F. Assignments of cases to private counsel by the Public Defender based on caseload considerations in the Public Defender's Office or any other reasons shall be subject to standards and criteria approved by the Office of Indigent Defense Services. Before providing direct representation to clients in types of

cases not previously handled on a regular basis by the Public Defender's Office, the Public Defender shall obtain the approval of the Director of the Office of Indigent Defense Services.

VI. Appointment Lists

The Public Defender shall maintain the Indigent Appointment List. The Public Defender shall evaluate applicant attorneys' qualifications and determine their placement on the appropriate Indigent Appointment List. No attorney shall be appointed as counsel for a person in a non-capital or non-criminal case in a court of this Judicial District unless the attorney has consented to placement of his or her name on the list of attorneys subject to appointment or, if the attorney has not agreed to do so, has otherwise consented to be appointed. *Rule 1.5(c)(2) of the Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level.* No person who is appointed counsel shall be entitled to select or specify the attorney assigned to defend him or her.

Nothing in these Regulations, the Indigent Defense Services Act, or the *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level* shall preclude the local bar from forming a local committee on indigent appointments to consult with the Public Defender on the operation of the local indigent defense program. The composition of the committee shall be determined by the local bar and may include, among others, individuals appointed by the local bar and bench. If a local committee is formed, the Public Defender shall meet with the committee at its request at least quarterly concerning the local indigent defense program. The lack of formation of a local committee shall not preclude the Public Defender from performing any of the duties or taking any of the actions authorized by these Regulations.

A. *Application for Participation on the Indigent Appointment List*

Attorneys seeking inclusion on the Indigent Appointment List must make a written request directly to the Public Defender, who may in his discretion request personal interviews. Applicant attorneys must own or have access to electronic mail and/or facsimile and must maintain an office in the Fourteenth Judicial District (Durham County). In addition:

1. All applicant attorneys must have a local working telephone number at which he or she can be contacted
2. The Public Defender may request comments on the applicant's legal ability from members of the judiciary and members of the Bar in the Fourteenth Judicial District

3. The Public Defender may request information in addition to that submitted in the application for placement on the Indigent Appointment List.
4. Any attorney who wishes to change his status on the list shall file a written request with the Public Defender or his designee. The request shall include sufficient information for the Public Defender to evaluate the change in status and shall be on such forms as may be required by the Public Defender.
5. No attorney shall be appointed as counsel pursuant to these *Regulations* unless that attorney has agreed to abide by these Regulations.

The Public Defender shall give written notice of the action taken on applications for placement on an Indigent Appointment List within 60 days.

B. Qualifications for Inclusion on Indigent Appointment Lists

1. List 1: Misdemeanor Cases

Attorneys on List 1 will represent indigent persons accused of misdemeanors in all proceedings before the District Court. They will represent respondents in show cause orders alleging contempt in District Court criminal proceedings. Attorneys who are appointed misdemeanors in District Court shall continue their representation of the defendant on *de novo* appeal in Superior Court. In District Criminal Court, the Public Defender will attempt to assign at least three (3) cases to an attorney before moving to the next attorney on List 1.

Requirements: To qualify for List 1, a significant portion of the applicant attorney's practice is or is expected to be criminal law and the applicant must demonstrate to the satisfaction of the Public Defender that he or she has the required legal knowledge and skill necessary for the representation in misdemeanor cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

2. List 2: Felony and Misdemeanor Cases

Attorneys on List 2 will represent indigent persons accused of misdemeanors or felonies from class G to I in the District and Superior Courts. They will also be expected to represent any misdemeanor client who exercises their right to trial *de novo* in Superior Court after conviction of a misdemeanor in District Court. Attorneys who are appointed misdemeanors in District Court shall continue their representation of the defendant on *de novo* appeal in Superior Court. *A lawyer on List 2 may designate that he/she will only accept felony cases.* If the attorney on this list agrees to accept misdemeanors, the Public Defender will attempt to assign at least three (3) misdemeanor cases to an attorney

before moving to the next attorney on List 2. An attorney on List 2 will also be appointed to represent existing clients on new misdemeanor charges, even if that attorney designates that he/she will only accept felony cases.

Requirements: To qualify for List 2, an applicant attorney must have been licensed to practice law for at least two (2) years and must demonstrate to the satisfaction of the Public Defender that he or she has the required legal knowledge and skill necessary for the representation in felony superior court cases and will apply that knowledge and skill with appropriate thoroughness and preparation. The applicant must also demonstrate that he/she is competent to try a Superior Court case before a jury and has the ability to handle felony cases in Superior Court. This trial experience requirement can be fulfilled by showing that the attorney has attended at least six (6) hours of continuing legal education in the area of criminal jury trials.

3. List 3: All Felonies and Misdemeanor List

Attorneys on List 3 will represent defendants charged with misdemeanors or felonies from class B1 to I, or Class A felonies subject to these Regulations, as described in III.B., above. They will also be expected to represent any misdemeanor client who exercises their right to trial *de novo* in Superior Court after conviction of a misdemeanor in District Court. *A lawyer on List 3 may designate that he/she will only accept felony cases.* Attorneys who are appointed misdemeanors in District Court shall continue their representation of the defendant on *de novo* appeal in Superior Court. If the attorney on this list agrees to accept misdemeanors, the Public Defender will attempt to assign at least three (3) misdemeanor cases to an attorney before moving to the next attorney on List 3. An attorney on List 3 will also be appointed to represent existing clients on new misdemeanor charges, even if that attorney designates that he/she will only accept felony cases.

Requirements: To qualify for List 3, an applicant attorney must have been licensed to practice law for at least three (3) years and must demonstrate to the satisfaction of the Public Defender that he or she has the required legal knowledge and skill necessary for the representation in serious felony cases in superior court and will apply that knowledge and skill with appropriate thoroughness and preparation. The applicant must have tried as lead counsel at least three criminal jury trials.

4A. List 4A: Class 1-3 Misdemeanor Juvenile Cases, Motions for Contempt

Attorneys on List 4A will represent juveniles alleged to be delinquent, where the petition alleges a Class 1-3 misdemeanor offense, or alleged to be in contempt of an undisciplined order.

Requirements: To qualify for List 4A, applicant attorneys must meet the requirements set forth in Appendix A to this document, which is incorporated herein by reference.

4B. List 4B: Class A1 Misdemeanor Juvenile Cases, Class F-I Felony Juvenile Cases, Probation Violations

Attorneys on List 4B will represent juveniles alleged to be delinquent, where the petition alleges a Class A1 misdemeanor offense, a Class F through I felony, or a probation violation.

Requirements: To qualify for List 4B, applicant attorneys must meet the requirements set forth in Appendix A to this document, which is incorporated herein by reference.

4C. List 4C: Class A-E Felony Juvenile Cases

Attorneys on List 4C will represent juveniles alleged to be delinquent, where the petition alleges a Class A through E felony.

Requirements: To qualify for List 4C, applicant attorneys must meet the requirements set forth in Appendix A to this document, which is incorporated herein by reference.

5. List 5: Parent Counsel

Attorneys on List 5 will represent parents in abuse, neglect, and dependency and termination of parental rights cases in Juvenile Court. They will also be appointed to represent in criminal proceedings indigent parents who are charged with a criminal offense arising from the same set of facts and circumstances alleged in the Juvenile Court petition.

In any case in which a petition for termination of parental rights is filed, the Public Defender shall (unless good cause exists not to do so) appoint the same attorney to represent the parent in the termination proceeding if the parent whose rights are sought to be terminated has been represented by an appointed attorney in a prior abuse, neglect, or dependency proceeding. The Public Defender shall forward the summons and petition to the appointed attorney by facsimile.

Requirements: To qualify for List 5, applicant attorneys must have demonstrated familiarity with the relevant specialized areas of law, including the Durham County Family Court Rules for Juvenile Court.

The attorney must complete any initial or follow-up training on abuse, neglect and dependency cases requested by the Public Defender and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation of clients in these cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

Upon learning that criminal charges are pending or have been filed against the parent, an attorney on List 5 who has not qualified for List 2 shall immediately notify the Public Defender and, if requested by the Public Defender, shall move to withdraw so that the Public Defender may appoint new counsel qualified to represent the parent in all of the pending matters. When criminal charges are pending against a parent, the Public Defender may appoint an attorney from his office or a private attorney to represent the parent in both the criminal case and the abuse, neglect, and dependency and termination of parental rights cases.

6. List 6: Special Proceedings Counsel

Attorneys on List 6 will represent the following:

- (1) persons alleged to be incompetent under Chapter 35A,
- (2) persons who have been involuntarily committed to a local mental health facility,
- (3) minors requesting a judicial waiver of parental consent to abortion,
- (4) persons responding to show cause orders for contempt of court, and
- (5) disabled adults as defined in Chapter 108A-105(b) and Chapter 108A-106 of the North Carolina General Statutes.

Attorneys for this list will be appointed by the Public Defender on the basis of a weekly rotation, i.e., one attorney will be appointed all cases of the type listed above that arise in the same calendar week. In the event the number of cases per week exceeds ten, the Public Defender will assign the next ten clients to the next attorney on this list.

Requirements: To qualify for List 6 the applicant attorney must have demonstrated familiarity with the relevant specialized areas of law, i.e., the North Carolina laws governing incompetency proceedings and commitment proceedings and must demonstrate he or she has the required legal knowledge and skill necessary for the representation in incompetency cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

7. List 7: Emergency Farmout List

Attorneys on this list agree to accept cases with no more than two hours notice of assignment. Attorneys on this list must be able to immediately attend to the assigned case in court. Attorneys will be appointed from this list without regard to their sequence position on any other list. Any appointments from this list shall be in addition to appointments from any other list. If the attorney cannot be contacted within a reasonable time, then the Public Defender shall proceed to the next attorney on the Emergency Farmout List.

Requirements: To qualify for this list, the attorney must be available by cellular phone or pager at any time during normal business hours. In addition, attorneys on this list must meet the requirements for List 2 if the case being appointed is a felony, otherwise the attorney must meet the requirements of List 1. Attorneys on this list will be subject to appointment to cases from any of the above lists, where the Court is demanding immediate attention. The attorney also must demonstrate he or she has the required legal knowledge and skill necessary for the representation in misdemeanor, felony and juvenile cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

8. List 8: Child Support Enforcement Actions

Attorneys on this list agree to accept child support enforcement actions representing the child support obligor.

Requirements: To qualify for this list, the attorney must be familiar with Chapters 50 and Chapters 110 of the North Carolina General Statutes and other relevant law on child support enforcement and the attorney must demonstrate he or she has the required legal knowledge and skill necessary for the representation in child support enforcement cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

VII. Administration of the Indigent Appointment List

A. Request for Removal from the Indigent Appointment List

An attorney may request to be removed from any court-appointed list. If an attorney requests removal, then he/she must reapply to be on the list.

B. *Grounds for Removal from the Indigent Appointment List*

Attorneys on the Indigent Appointment List are expected to provide quality representation for all clients. Minimum standards of representation include, but are not limited to the following:

Attorneys on the Indigent Appointment List

1. Must maintain regular contact with clients.
2. Must appear on their clients' court dates.
3. Must report a North Carolina State Bar Complaint which has been lodged against them to the Public Defender within ten (10) days of the attorney's answer to the complaint. Attorneys on the Indigent Appointment List are expected to inform the Public Defender of the results of any North Carolina State Bar disciplinary action.
4. Shall not receive anything of value from anyone in connection with representation during the period of representation.
5. Must visit incarcerated clients within four (4) days after notification of appointment.
6. Must keep the client fully informed as to the status of his case.
7. Must advise their clients on a timely basis of the right to appeal, either for trial *de novo* or to the appropriate appellate court and if the client elects to appeal, the attorney must enter notice of appeal for the client. If notice of appeal is to the superior court, the attorney shall continue his or her representation of the client in Superior Court.
8. Must provide competent representation of the clients.

Failure to provide minimum standards of representation as set forth above will lead to the removal of the attorney from the Indigent Appointment List by the Public Defender. In addition, the Public Defender may remove an attorney from a list if at any time an attorney no longer meets the standards set forth in Article VI for the list on which he or she is placed, or otherwise fails to meet the responsibilities of representation including, but not limited to, billing in compliance with the Rules of the Commission on Indigent Defense Services, all local rules, and the Revised Rules of Professional Conduct.

C. *Filing of Regulations, Lists and Reports*

These *Regulations* shall remain on file with the Clerk of Superior Court, the Senior Resident Superior Court Judge, the Chief District Court Judge, and the Office of the Public Defender. The Public Defender shall maintain current copies of the Indigent Appointment Lists in actual use in his office and these lists, as well as these *Regulations*, shall be available for inspection by members of the public at any reasonable time. The Public Defender shall produce a monthly report of all appointments made pursuant to these *Regulations*. This report shall be maintained in his office and shall be available for inspection by members of the public at any reasonable time. The Public Defender shall provide to the Office of Indigent Defense Services such reports and records as may from time to time be required by that Office.

VIII. **Requests for Review**

Requests for review of a decision of the Public Defender regarding placement of an attorney on a particular list or the denial of placement to a particular list shall be made to the Director of the Office of Indigent Defense Services in writing within 15 days of the attorney's receipt of notice of the Public Defender's decision.

IX. **Miscellaneous**

- A. These *Regulations* are issued pursuant to Rule 1.5 of *Rules for the Continued Delivery of Services in Non-Capital Criminal and Non-Criminal Cases at the Trial Level*. Nothing contained herein shall be construed or applied inconsistently with the *Rules* established by the Indigent Defense Services Commission or with other provisions of state law.
- B. Notwithstanding any provision above and consistent with the *Rules Governing Practical Training of Law Students* as approved by the Supreme Court, the Public Defender reserves the right to assign misdemeanor and misdemeanor juvenile cases to the Criminal Legal Clinics of the Law School of North Carolina Central University and the School of Law of the University of North Carolina at Chapel Hill.
- C. These *Regulations* shall be construed liberally in order to carry out the purpose stated in **Article II** above of these *Regulations*.
- D. Nothing in these *Regulations* shall preclude the Office of Indigent Defense Services from implementing programs, plans, or contracts regarding the assignment of counsel to improve quality, efficiency, and economy or from adopting and enforcing standards and rules that supplement or supercede

these *Regulations*. The Public Defender may modify these *Regulations* with the approval of the Office of Indigent Defense Services.

X. Adoption and Certification

These regulations were adopted by Public Defender Robert Brown, Jr., and became effective on November 20, 2001.

Section IV.C. was amended effective April 26, 2002. Section III.B.(2) was amended effective December 13, 2004, and effective October 10, 2005. New Section X. was added effective December 13, 2004. Sections III.B.(3) and VII.B. were amended effective October 24, 2006. Sections III.A.(10) and VI.B. Lists 4A, 4B, 4C, and 5 were amended effective March 5, 2008. New Appendix A was added effective March 5, 2008.

The regulations and amendments have been approved and certified by the Executive Director of the Office of Indigent Defense Services in accordance with Rule 1.5(b) of the Rules of the Commission on Indigent Defense Services.

**QUALIFICATION STANDARDS FOR PRACTICE IN
JUVENILE DELINQUENCY COURT IN THE 14TH JUDICIAL DISTRICT¹**

The requirements in Section II apply to attorneys who are in good standing but have not recently practiced in juvenile delinquency court or adult criminal court prior to the adoption of these standards. Exemptions from these requirements are set forth in Section III.

I. Definitions

1. Juvenile delinquency training: Training devoted to juvenile law and procedure, as well as special topics relevant to juvenile court, such as adolescent development, mental health, special education, substance abuse, and cultural issues, provided by an approved training provider.
2. Approved training provider: The Office of the Juvenile Defender, the Office of Indigent Defense Services, the UNC School of Government, the North Carolina Bar Association, the North Carolina Academy of Trial Lawyers, the Center for Children’s Defense, or another entity approved by the Office of the Juvenile Defender or the Office of Indigent Defense Services.
3. Court Sessions: One complete day of court in which juvenile delinquency matters are heard, with the length of the day depending on the number of matters docketed.

II. Requirements

List 4A (Class 1-3 Misdemeanors, Motions for Contempt)

Prior to approval:

Experience: The applicant must be a duly licensed attorney and a member in good standing of the North Carolina State Bar.

Observation: The applicant must observe three court sessions and provide to the Public Defender and local Committee on Indigent Appointments (hereinafter “Committee”) a written statement of the location, date, and time of the session.

Court counselor office orientation: The applicant must certify to the Public Defender and Committee that the applicant has spent no less than one hour becoming familiar with the practices and procedures of the court counselor office in Durham County, preferably by meeting with the Chief Court Counselor or Court Counselor Supervisor.

¹ These standards do not apply to law students participating in a law school clinic program under the Rules governing the Board of Law Examiners and the Training of Law Students, Subchapter C, Chapter 1, Title 27 of the North Carolina Administrative Code.

Continuing Requirements:

Training: The attorney must complete at least six hours of juvenile delinquency training within the first year of practice in delinquency court, at least four hours of which must be specifically devoted to juvenile law and procedure and thereafter complete at least three hours of training every other year.

Detention facility: Within the first year of practice, the applicant must confer with the director of the nearest juvenile detention facility or the director's designee in person or by telephone and become familiar with detention center policies and procedures and certify compliance to the Public Defender and Committee.

List 4B (Class A1 Misdemeanors, Class F-I Felonies, Probation Violations)

Prior to approval:

Previous requirements: The applicant must have successfully completed all of the requirements of List 4A.

Experience: The applicant must have recently practiced in juvenile delinquency or adult criminal court on a consistent basis for at least six months.

Continuing requirements:

Training: The attorney must complete at least three hours of juvenile delinquency training every other year the attorney represents juveniles.

List 4C (Class A-E Felonies)

Prior to approval:

Previous requirements: The applicant must have successfully completed all of the requirements of List 4B.

Experience: The applicant must have recently practiced in juvenile delinquency or adult criminal superior court on a consistent basis for at least three years.

Special qualifications: The applicant must be willing to continue to represent a juvenile if the juvenile's case is transferred to Superior Court and be qualified by the Public Defender and Committee to represent adults in felony cases in Superior Court.

Continuing requirements:

Training: The attorney must complete at least three hours of juvenile delinquency training every other year the attorney represents juveniles.

III. Exemptions

Exemptions from the above requirements:

1. For attorneys who are in good standing and have practiced in **juvenile delinquency court** prior to the adoption of these standards, the qualification standards are as follows:

An attorney who wishes to be placed on **List 4A** must have recently practiced in juvenile delinquency court on a consistent basis for at least four months, and have completed at least two contested juvenile delinquency misdemeanor adjudicatory hearings. Within two years of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4B** must have recently practiced in juvenile delinquency court on a consistent basis for at least one year, and have completed at least three contested juvenile delinquency hearings, including at least one misdemeanor adjudicatory hearing and one felony adjudicatory hearing. Within two years of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4C** must have practiced in juvenile delinquency court for at least three full years, and have completed at least six contested juvenile delinquency hearings, including at least two felony adjudicatory hearings (one of which must be a Class A through E felony) and at least two hearings where the juvenile could potentially have been committed to a youth development center. Within two years of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee. The attorney also must be willing to continue to represent a juvenile if the juvenile's case is transferred to Superior Court and be qualified by the Public Defender and Committee to represent adults in felony cases in Superior Court.

2. For attorneys who are in good standing and have practiced in **adult criminal court** prior to or after the adoption of these standards, the qualification standards are as follows:

An attorney who wishes to be placed on **List 4A** must have recently practiced in adult criminal (district or superior) court on a consistent basis for at least four months and have completed the Observation and Court Counselor Office Orientation requirements under List 4A. Within one year of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4B** must have recently practiced in adult criminal (district or superior) court on a consistent basis for at least one full year, and have completed the Observation and Court Counselor Office Orientation requirements under List 4A. Within one year of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4C** must have recently practiced in adult criminal superior court on a consistent basis for at least three full years and have completed the Observation and Court Counselor Officer Orientation requirements under List 4A. Within one year of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee. The attorney also must be willing to continue to represent a juvenile if the juvenile's case is transferred to Superior Court, and be qualified by the Public Defender and Committee to represent adults in felony cases in Superior Court.

3. Assistant Public Defenders who are assigned to delinquency court may be exempt from the Experience requirements if: (1) all other requirements under the respective lists are satisfied; and (2) an experienced member of the Public Defender staff is available to assist the assistant public defender when requested.