

**REGULATIONS FOR APPOINTMENT OF COUNSEL IN  
SIXTEEN B JUDICIAL DISTRICT  
UNDER THE INDIGENT DEFENSE SERVICES ACT**

**I. Applicability**

**A. Generally**

These regulations are issued pursuant to Rule 1.5 of the Rules for the *Continued Delivery of Services in Non-Capital and Non-Criminal Cases at the Trial Level*. They apply to all non-capital and non-criminal cases at the trial level in the 16B Judicial District in which the provision of counsel is subject to the Indigent Defense Services Act of 2000, codified at G.S. 7A-498 through 7A-498.8 (hereinafter “IDS Act”).

**B. Exceptions**

1. 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 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 the 16B Judicial District 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 or her office or a private attorney from the appropriate list.

2. 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*.

**II. Administration of Regulations**

The Public Defender in the Sixteen B Judicial District (hereinafter “Public Defender”) is responsible for administering these regulations. The Public Defender shall coordinate with the court and the local bar to ensure that these regulations are applied in a fair and impartial manner.

### **III. Determination of Entitlement to Counsel**

In each case subject to these regulations the court shall determine whether a person is entitled to have counsel appointed to represent him or her in the particular case. In cases in which a person must be indigent to receive counsel, the court shall make the determination of indigency. When these regulations describe the functions that a court performs, the term “court” includes the clerk of superior court.

### **IV. Appointment of Public Defender’s Office**

#### **A. Cases Covered**

Upon determining that a person is entitled to counsel in the matters listed below, the court shall appoint the Public Defender to represent the person except if the Public Defender has a conflict of interest:

1. Defendants in criminal cases or proceedings (including defendants charged with criminal nonsupport but not including defendants charged with criminal contempt for failing to pay child support);
2. Juveniles in cases in which the juvenile is alleged to be delinquent or undisciplined, or brought before a court pursuant to a detention order under G.S. 7B-2804(a) and 7B-2805(a);
3. A proceeding for an inpatient involuntary commitment to a facility under Part 7 of Article 5 of Chapter 122C of the General Statutes, a proceeding for commitment under Part 8 of Article 5 of Chapter 122C of the General Statutes, or a proceeding for the admission of a minor pursuant to Part 3 of Article 5 of Chapter 122C of the General Statutes;
4. Parents in abuse, neglect, and dependency cases and in termination of parental rights cases, only when there is a related pending criminal charge against the parent;
5. Minors requesting judicial waiver of parental consent to abortion;
6. 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.

Upon being appointed as counsel, the Public Defender shall assign the case to an assistant public defender or to private counsel as provided in Article V, below.

#### **B. Notice to Client**

In cases assigned to the Public Defender’s office, the court shall provide instructions to the client, on a form provided by the Public Defender, on contacting the Public Defender.

## **C. Conflicts**

If the court at the time of determining a person's entitlement to counsel in any of the matters listed above, finds that the public defender's office has a conflict of interest, the court shall appoint private counsel as provided in Article VI, below. All cases involving co-defendants shall be deemed to have a conflict of interest unless co-defendants sign a written waiver of any conflict of interest. The Court shall appoint the Public Defender to represent only one co-defendant, and shall appoint private counsel to represent other co-defendants as provided in Article VI, below.

## **D. Preliminary Determination**

Prior to the court's determination of entitlement to counsel in any of the matters listed above, the Public Defender may pursuant to G.S. 7A-452(a) tentatively assign his or her office to represent a person whom the Public Defender determines is entitled to counsel. To help assure the prompt appointment of counsel for in-custody persons, the authority having custody of a person who is without counsel for more than 48 hours after being taken into custody shall so inform the Public Defender pursuant to G.S. 7A-453(a). Tentative appointments by the Public Defender under this provision are subject to later approval by the court.

## **V. Assignments by Public Defender**

### **A. Determination**

As soon as practicable after learning of an appointment, the Public Defender shall determine whether to assign the case to an assistant public defender or to private counsel. Subject to standards approved by the Office of Indigent Defense Services, the Public Defender may assign cases to private counsel based on, among other factors, the caseloads of the assistant public defenders in his or her office. If the Public Defender assigns a case to private counsel, he or she shall record the reasons for doing so. If the Public Defender assigns a case to private counsel outside of the regular sequence, he or she shall record the reason for doing so.

### **B. Conflicts**

If prior to any court appearance, the Public Defender finds that his or her 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 in these Regulations and any criteria approved by the Office of Indigent Defense Services. If the Public Defender finds that his or her office has a conflict after appearing in the case, the Public Defender shall move to withdraw, and the court shall appoint new counsel in accordance with Article VI, below.

### **C. Order of Assignments**

1. The Public Defender shall maintain in his or her office lists of attorneys, duly qualified pursuant to Articles VIII and IX below, to handle cases assigned by the Public Defender. Such lists shall be made reasonably available to the public upon request.

2. If the Public Defender finds that the case should be assigned to private counsel, the Public Defender shall assign an attorney from the appropriate list. No assignment shall be made by the Public Defender to an attorney whose name does not appear on one of the lists on file with the Public Defender's Office. In exceptional circumstances only, the Public Defender may appoint an attorney who is not on one of the lists with that attorney's consent. If the Public Defender makes such an appointment, the Public Defender shall record the reasons for doing so.

3. The Public Defender shall assign attorneys in the sequence in which they appear on the list except as permitted by these regulations. The Public Defender may assign an attorney who is not next in sequence if an attorney is unavailable, an attorney has a conflict, another attorney is representing the particular client, or the interests of justice require the assignment of a specific attorney instead of the next available attorney. If the Public Defender passes over the name of an attorney, the Public Defender shall return to that attorney for the next eligible assignment

4. The Public Defender shall make a record of assignments and make the same reasonably available to the public on request. If the Public Defender assigns an attorney who is not next in sequence, the Public Defender shall record the reasons for doing so.

### **D. Notice**

If the Public Defender assigns an assistant public defender to a case, the Public Defender shall enter the name of the assistant public defender in the Case Management System. If the Public Defender assigns a case to private counsel, the Public Defender shall furnish the "Notice of Assignment" to the attorney by fax, e-mail, or by placing a copy of the "Notice of Assignment" in the attorney's box located in the Robeson County Clerk of Court Office. The Public Defender shall also enter the name of the private attorney in the Case Management System. If the Public Defender has made copies of the court file, the Public Defender may provide such copies to the attorney assigned. The Public Defender shall also file the "Notice of Assignment" with the Clerk of Superior Court and shall provide a copy to the defendant or respondent, and to the prosecutor's office.

## **E. Withdrawal**

Once the Public Defender has issued a “Notice of Assignment” to private counsel and filed it with the clerk, only the court may permit the attorney to withdraw. If the court permits the attorney to withdraw, the Public Defender shall assign the case to an assistant public defender or to a new private attorney or, in the event of a conflict, the court shall appoint new counsel.

## **F. Multiple Counsel**

1. In assigning cases to private counsel, the Public Defender should assign the same attorney on all pending matters if the attorney is on the appropriate list.

2. If an attorney is assigned to represent a client on one matter, and the attorney learns that the client requires representation on another matter for which the attorney is not on the appropriate list, the attorney shall notify the Public Defender. If requested by the Public Defender, the attorney shall move to withdraw from the case so that the Public Defender may assign all of the matters to other counsel who is on all of the appropriate lists or, in the event of a conflict, the court may appoint new counsel.

3. If no single attorney is on all of the appropriate lists, the attorneys appointed to represent the client shall consult with each other to assure that the client’s interests are protected.

## **G. Requests for Substitution of Counsel**

For good cause, the Public Defender may request that a judge of a court of competent jurisdiction replace counsel previously assigned by the Public Defender with new counsel selected by the Public Defender.

# **VI. Appointment of Private Counsel by Court**

## **A. Cases Covered**

For persons entitled to counsel in the matters listed below, the court shall appoint private counsel in accordance with the procedures described in this article:

1. Defendants or respondents in cases specified in Article IV, above, only if the court determines that the Public Defender has a conflict;
2. Respondents in incompetency cases filed under Chapter 35A of the North Carolina General Statutes
3. Defendants charged with contempt in child support enforcement matters;
4. Parents in cases in which a juvenile is alleged to be abused, neglected, or dependent, except when related criminal charges are pending against the respondent;

5. Respondents in petitions for termination of parental rights, except when related criminal charges are pending against the respondent;
6. Persons responding to show cause orders for contempt of court;
7. Respondents in proceedings for sterilization under Chapter 35, Article 7 (sterilization of persons mentally ill and mentally retarded);
8. Persons against whom execution is 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;
9. Respondents in proceedings for the provision of protective services according to Chapter 108A, Article 6 of the General Statutes
10. Persons found to be material witnesses by the Court;
11. Any other person who has a right to appointed counsel that is not otherwise described in this article or in Article IV, above.

## **B. Order of Appointments**

1. The clerk of superior court shall maintain in the clerk's office the master lists of attorneys, duly qualified under Articles VIII and IX below, to handle cases appointed by the court. Such lists shall be made reasonably available to the public upon request. The clerk of court shall distribute copies of such master lists to each courtroom. When an appointment is to be made either at the district court or superior court level, the clerk of court shall be consulted in order to obtain the name of the next person appearing on the appropriate list of attorneys for the case under consideration.

2. If the court determines that a person is entitled to counsel, the court shall assign an attorney from the appropriate master list.

3. The court shall assign attorneys in the sequence in which they appear on the list except as permitted by these regulations. The court may appoint an attorney who is not next in sequence on the list if an attorney is unavailable, an attorney has a conflict, another attorney is already representing the particular client, or the interests of justice require that a specific attorney be appointed rather than the next available attorney. If the court passes over the name of an attorney, the court shall return to that attorney for the next appointment.

4. In exceptional circumstances only, the Court may appoint an attorney who is not on one of the lists with that attorney's consent. If the Court makes such an appointment, the Clerk shall record the Court's reasons for doing so.

## **C. Record of Assignments**

The clerk shall record on a form provided by the Public Defender the appointments made by the Court and shall provide the record to the Public Defender on a monthly basis. If the court appoints an attorney who is not next in sequence, the clerk shall record the Court's reasons for doing so. This record shall be made available to the public upon request to the Public Defender.

## **D. Notice**

Upon appointing private counsel, the court shall furnish the notice of appointment to the attorney and shall furnish to the client on a form provided by the Public Defender or its designee instructions about contacting his or her attorney. If the court appoints a private attorney for an incarcerated person via audio-video transmission, the court shall provide notice to the person about contacting his or her attorney.

## **E. Multiple Counsel**

1. In assigning cases to private counsel, the court shall seek to appoint the same attorney on all pending matters with the same defendant if the attorney is on the appropriate list.

2. If an attorney is appointed to represent a client on one matter, and the attorney learns that the client requires representation on another matter for which the attorney is not on the appropriate list, the attorney shall notify the court. The court may remove the attorney from the case so that the court may assign all of the matters to other counsel who is on all of the appropriate lists.

## **VII. Committee on Indigent Appointments**

### **A. Establishment of Committee**

A Committee on Indigent Appointments ( hereinafter “Committee” ) is hereby established to assist the Public Defender in the implementation of these regulations. The Public Defender shall appoint the chair of the Committee and shall consult with the Committee as described herein. The failure of any of the appointing authorities to make the appointments described below, or the failure of the Committee to meet or do any of the things authorized by these regulations, shall not preclude the Public Defender from performing any of the duties or taking any of the actions authorized by these regulations.

### **B. Committee Membership Qualifications**

All members of the committee shall be attorneys who:

- a. Have practiced in one or more areas covered by the appointment lists for not less than 5 years in Sixteen B Judicial District, and
- b. Are knowledgeable about practicing attorneys in Judicial District Sixteen B.

### **C. Committee Membership and Terms**

The Committee shall consist of five members appointed as follows:

- a. The President of the 16B District Bar shall appoint one member, who will initially

- serve a one year term;
- b. The Senior Resident Superior Court Judge shall appoint one member, who will initially serve a two-year term;
- c. The Chief District Court Judge shall appoint one member, who will initially serve a two-year term;
- d. The Public Defender shall appoint one member, who will initially serve a one-year term;
- e. The Public Defender shall serve on the Committee as a permanent member
- f. If that person agrees, the Clerk of Superior Court or her designee (who shall be a deputy or assistant clerk) shall serve as an ex officio member of the Committee.

The Committee shall select the recording secretary to the Committee.

All members of the Committee shall be appointed for terms of two years after the initial terms indicated above. Appointments to the Committee shall be made by letter, a copy of which shall be maintained in the records of the Committee. Any member who resigns or otherwise becomes ineligible to continue service as a member shall be replaced for his term as soon as practicable.

#### **D. Meetings**

The first meeting shall be called within 15 days after approval of this plan by the Indigent Defense Services Commission. Meetings of the Committee shall be called by the chair or Public Defender upon reasonable notice. The Committee shall meet once a month until the procedures outlined herein are fully operative and implemented, and thereafter as often as is necessary to dispatch its business but at least quarterly.

#### **E. Responsibilities**

The Public Defender, in conjunction with the Committee, is responsible for determining the eligibility of attorneys for appointment to cases under these regulations. In discharging this responsibility, the Public Defender and the Committee shall:

- a. Determine the number and type of lists and qualifications to be on the list;
- b. Review requests from attorneys concerning their placement on any list and obtain information pertaining to such placement;
- c. Approve or disapprove an attorney's addition to or deletion from any list or the transfer of any attorney from one list to another, provided that an attorney's request to be deleted from a list or transferred to a lower numbered list shall not require Committee approval;
- d. Establish procedures with which to carry out the Committee's business, including, but not limited to, establishing a permanent file to be maintained by the recording secretary of the committee and appointing subcommittees to assist the Committee, which may consist of people who are not members of the Committee.



Discussions of the committee, its records, and its actions shall be treated as confidentially as possible. The names of the members of the committee shall not be confidential.

## **F. Administrator**

There shall be an Administrator of these regulations designated by the Public Defender who shall assist the Committee in performing its duties, including notifying Committee members of meetings, providing them with materials pertinent to their business, and maintaining records relating to the actions of the Committee.

## **VIII. Placement of Attorneys on Lists**

### **A. Application**

Any attorney who wishes to have his or her name added to any list shall file a written request with the Administrator on a form provided by the Administrator. The request shall include information that will facilitate the Public Defender's and Committee's determination whether the attorney meets the standards set for in Article IX for placement on the list.

The Administrator shall maintain records for the Committee and shall advise each member of the Committee of the name of the requesting attorney and the nature of the request before the Committee meets to review the request. The Administrator shall assure that all properly filed requests are brought to the Committee's attention at the next meeting.

### **B. Addition to List**

The Public Defender, in conjunction with the Committee, shall determine whether the attorney meets all of the applicable standards in Article IX. The attorney shall be notified in writing whether his or her application is approved or denied.

The Public Defender and the Committee shall review each request by an attorney to be on a list. The Public Defender and the Committee may request that an attorney applicant submit additional information, including appearing before the Committee to be interviewed. Any member of the Committee may discuss requests with other members of the bar and the bench, and may relate information obtained thereby to other members of the Committee. An attorney consents to the confidentiality of such inquiries by applying to be on any list.

### **C. Removal from List**

An attorney who wishes to have his or her name removed from a list shall file a written request with the Administrator, and the Administrator shall remove the attorney's

name from the list and notify the court and any other interested parties. An attorney must reapply to be on the list.

The Public Defender, in conjunction with the Committee, may remove an attorney from a list if at any time an attorney no longer meets the standards set forth in Articles IX and X, 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.

The Public Defender may suspend appointments to an attorney before consulting with the Committee if the Public Defender determines that such action is necessary to assure adequate and competent representation.

#### **D. Requests for Review**

An attorney whose name is deleted from or not placed on a list or who is transferred to another list may request review of the decision to the Director of Indigent Defense Services in writing within fifteen days of receipt of the adverse decision.

Whenever an attorney who provided information to the Committee, collectively or through any member, requests that his or her name not be used or that his or her information be treated confidentially, the request shall be granted to the extent permitted by law unless doing so results in manifest unfairness.

### **IX. Lists of Attorneys**

#### **A. General Requirements**

To be eligible to be included on any of the lists provided for herein, an attorney must:

1. Be a practicing attorney in the State of North Carolina who maintains an office in the Sixteen B Judicial District; and
2. Have a working fax or e-mail; and
3. Submit an application to be placed on the particular list and be approved as provided in Article VIII, above.

#### **B. Provision of Lists**

The Public Defender or his or her designee shall provide to the court the current list of attorneys subject to appointment in the Sixteen B Judicial District. The Public Defender or his or her designee shall update the list at least every three months or sooner if there are additions or deletions.

## **C. Lists**

### ***List 1: Misdemeanor Cases***

Attorneys on List 1 will represent indigent persons accused of misdemeanors in all proceedings before the District Court. They will also 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.

*Requirements:* To qualify for List 1, a significant portion of the attorney's practice must be or must be expected to be criminal law and the applicant must demonstrate 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.

### ***List 2: Felonies F through I***

An attorney on List 2 will represent indigent persons accused of felonies from classes **F** through **I** in the District and Superior Courts. An attorney on List 2 will also be appointed to represent existing clients on new or pending misdemeanor charges, including, if necessary, trial de novo if the client exercises his or her right to a jury trial.

*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 that he or she has the required legal knowledge and skill necessary for the representation in felony cases and will apply that knowledge and skill with appropriate thoroughness and preparation. The applicant must also demonstrate that he or she is competent to try a superior court case before a jury and otherwise has the ability to handle felony cases in superior court. In addition to other background and experience 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.

### ***List 3: Felonies A to E***

Attorneys on List 3 will represent defendants charged with felonies from class **A** to **E** felonies subject to these Regulations as described in Article I.B., above. A lawyer on List 3 will also be appointed to represent the client on new non-capital felony or misdemeanor charges of any class or non-capital felony or misdemeanor charges of any class pending at the time of the original appointment on the felony cases. The attorney will also be expected to represent any client who exercises the right to trial de novo in superior court after conviction of a misdemeanor in district court.

*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 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 or individually at least one criminal jury trial.

***List 4: Misdemeanor Juvenile Cases***

Attorneys on List 4 will represent juveniles alleged to be delinquent or undisciplined in the juvenile courts, where the petition alleges a misdemeanor offense.

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

***List 5: Felony Juvenile Cases -- F through I***

Attorneys on List 5 will represent juveniles alleged to be delinquent where the petition alleges class **F** through **I** felonies. Attorneys on this list will also be appointed misdemeanor juvenile cases in which the respondent juvenile is accused of committing a misdemeanor.

*Requirements:* To qualify for List 5, the applicant must meet the requirements for List 5 that are set forth in Appendix A to this document, which is incorporated herein by reference.

***List 6: Felony Juvenile Cases – A through E***

Attorneys on List 6 will represent juveniles alleged to be delinquent where the petition alleges class **A** through **E** felonies. Attorneys on this list will also be appointed misdemeanor or felonies of any class in which the respondent juvenile is accused of committing the misdemeanor or felony.

*Requirements:* To qualify for List 6, the applicant must meet the requirements for List 6 that are set forth in Appendix A to this document, which is incorporated herein by reference.

***List 7: Special Proceedings Counsel***

Attorneys on List 7 will represent the following:

- a. persons alleged to be incompetent under Chapter 35A;
- b. minors requesting a judicial waiver of parental consent to abortion;
- c. persons responding to show cause orders for contempt of court;
- d. disabled adults as defined in Chapter 105(b) and Chapter 106 of the North Carolina General Statutes, and
- e. respondents in involuntary commitment matters.

Attorneys for matters in (a). through (d.) will be appointed by the Court on the basis of a monthly rotation, i.e., one attorney will be appointed all cases under (a.) through (d). that arise in the same calendar month; however, after appointing five clients to an attorney in the same calendar month, the court shall assign the next five clients to the next attorney on the list. The Public Defender shall be appointed for matters in (e) unless there is a conflict.

*Requirements:* To qualify for List 7 the applicant attorney must have demonstrated familiarity with the relevant specialized areas of law, including the North Carolina laws governing incompetency proceedings, and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in cases listed in this category and will apply that knowledge and skill with appropriate thoroughness and preparation.

***List 8: Child Support Enforcement Actions and Civil Contempt***

Attorneys on this list agree to accept child support enforcement actions representing the child support obligor or the person attempted to be held in contempt for whatever purpose. Attorneys on this list shall be appointed by the Court for the session and must be available for immediate hearings or hearings on the same day.

*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.

***List 9: Parent Counsel, Termination of Parental Rights***

Attorneys on this list will represent parents in abuse, neglect, and dependency cases in Juvenile Court. In any case in which a petition for termination of parental rights is filed, the court 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 the appointed attorney in the prior abuse, neglect or dependency proceeding. The court shall forward the summons and petition to the appointed attorney by facsimile.

If related criminal charges are pending against the parent at the time of commencement of the abuse, neglect, and dependency case or the proceeding to terminate parental rights, the court shall appoint the Public Defender to represent the parent. If a private attorney has been appointed and thereafter learns that related criminal charges are pending or have been filed against the parent, the attorney shall notify the Public Defender and, on request of the Public Defender, the attorney shall move to withdraw and the court shall appoint the Public Defender to represent the person in both the criminal case and in the abuse, neglect, and dependency case and termination of parent rights proceeding. Upon being appointed, the Public Defender shall determine

whether to assign the case to an attorney in the Public Defender's office or to private counsel on this list.

*Requirements:* To qualify for list 9 attorneys must have demonstrated a familiarity with the relevant specialized area of law. The applicant must also demonstrate that he or she has the required legal knowledge and skill necessary for the representation in the cases in this category and will apply that knowledge and skill with appropriate thoroughness and preparation.

## **X. Performance Standards**

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

1. Must maintain regular contact with clients;
2. Must appear on their clients' court dates;
3. 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 under these regulations 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; and
8. Must provide competent representation of the clients;

Failure to provide minimum standards of representation as set forth above may lead to the removal of the attorney from the indigent appointment list.

## **XI. Miscellaneous**

Nothing in the Regulations shall preclude the IDS Office 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 the Regulations.

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 the Office. The Public Defender may modify the Regulations only with the approval of the IDS Office.

Before providing direct representation to clients in 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 IDS Office.

## **XII. Adoption and Certification**

These regulations were adopted by Public Defender Angus B. Thompson, II, and became effective on January 1, 2002.

Section I.B.1. was amended effective December 8, 2004, and effective October 10, 2005. New Section XII. was added effective December 8, 2004. Sections I.B.2. and VIII.C. were amended effective October 24, 2006. Section IX.C. Lists 4-6 were amended effective March 26, 2007. New Appendix A was added effective March 26, 2007. Section IV.A.6. was amended effective July 8, 2008. Section IV.A.3. was amended effective October 31, 2011.

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.

**APPENDIX A**  
**QUALIFICATION STANDARDS FOR PRACTICE IN**  
**JUVENILE DELINQUENCY COURT IN THE 16B JUDICIAL DISTRICT<sup>1</sup>**  
**(Effective March 26, 2007)**

*The requirements in Section II of this Appendix 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 of this Appendix.*

**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 4 (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 court sessions in Robeson County according to the following schedule. If court meets two days a month or less, the applicant must observe one session. If court meets one day a week, the applicant must observe two sessions. If court meets more than one day a week, the applicant must observe three sessions. The applicant must provide to the Public Defender and Robeson County Committee on Indigent Appointments (hereinafter "Committee") a written statement of the location, date, and time of the session.

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<sup>1</sup> 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.



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 Robeson County, preferably by meeting with the Chief Court Counselor or Court Counselor Supervisor.

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 5 (Class F-I Felonies, Probation Violations)**

Prior to approval:

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

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

Continuing requirements:

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

**List 6 (Class A-E Felonies)**

Prior to approval:

Previous requirements: The applicant must have successfully completed all of the requirements of List 5.

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 two years 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 4** must have recently practiced in juvenile delinquency court on a consistent basis for at least one full year, 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 5** must have recently practiced in juvenile delinquency court on a consistent basis for at least two full years, 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 6** 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 4** 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 4. 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 5** must have recently practiced in adult criminal (district or superior) court on a consistent basis for at least two full years, and have completed the Observation and Court Counselor Office Orientation requirements under List 4. 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 6** 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 4. 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.