

**REVIEW FROM DENIAL OF ATTORNEY APPLICATION FOR PLACEMENT ON
LOCAL APPOINTMENT LIST OR REMOVAL FROM LOCAL APPOINTMENT LIST**

Effective February 1, 2010, IDS Rule 1.5(d1) provides that, if an attorney is denied placement on or removed from a list of attorneys subject to appointment in a judicial district or county by a local indigent committee, the attorney may seek review of that decision by the IDS Director or his or her designee in accordance with policies and procedures adopted by the IDS Office. The following policies and procedures apply to all such requests for review from decisions of a local indigent committee. IDS Rule 1.5(d1) and these policies and procedures do not create a right to seek review by the IDS Director of an order imposed by a court pursuant to its concurrent jurisdiction over the conduct of the lawyers who appear before it.

IDS Policy:

If a local indigent committee denies an application for placement on a local indigent list, or removes an attorney from a local indigent list, the committee shall provide to the attorney a written statement summarizing the basis of the adverse decision. An attorney who has had his or her application for a local indigent list denied by a local indigent committee, or who has been removed from a local indigent list by a local indigent committee, may request review of that decision by the IDS Director. A request for review must be in writing, addressed to the IDS Director, and mailed to:

Office of Indigent Defense Services
Attn: IDS Director, Review Request
123 West Main St., Suite 400
Durham, NC 27701

If the local plan for appointment of counsel in the judicial district or county does not provide for a right of review to the IDS Director, any requests for review pursuant to IDS Rule 1.5(d1) must be postmarked within 15 days of when the attorney receives notice of the adverse decision or the effective date of IDS Rule 1.5(d1), whichever occurs later. If the local plan for appointment of counsel in the judicial district or county provides for a right of review to the IDS Director and establishes a longer time period for submission of the request than Rule 1.5(d1), any requests for review must be postmarked within the time period established by the local plan.

The attorney requesting review must submit to the IDS Director the attorney's application for the indigent list and the committee's written statement summarizing the basis of its adverse decision, and may submit additional written materials for consideration by the IDS Director. The attorney must also provide copies of all documents submitted to the IDS Director to the chair of the local indigent committee, and the committee may provide a written response to the IDS Director. The attorney shall not appear in person before the IDS Director, unless requested to do so. The IDS Director shall reach a decision within no more than forty-five (45) days after receipt of the written request for review. The request for review shall not stay the action which is the subject of the review.

The IDS Director may reverse or uphold the local committee's decision. The IDS Director shall not reverse the committee's decision unless he or she is fully satisfied that the decision was

arbitrary, capricious, or an abuse of discretion. The IDS Director shall provide written notification of the result of the review to the chair of the local indigent committee and the attorney seeking review. If the IDS Director reverses the committee's decision, the Director shall also provide written notification of the result of the review to the clerk of superior court in each affected county, and the attorney's name shall be added to the applicable list of attorneys who are eligible to receive appointments in the judicial district or county.

If you have questions about this policy, please contact:

- Thomas K. Maher, IDS Executive Director, at Thomas.K.Maher@nccourts.org or (919) 354-7200; or
- Whitney B. Fairbanks, IDS Assistant Director, at Whitney.B.Fairbanks@nccourts.org or (919) 354-7200.

Policy effective February 1, 2010.

Authority:

G.S. 7A-498.3(c); 7A-498.5(c)(2), (d); IDS Rules 1.5(d1), (f).