

Office of the State Public Defender Administrative Policies

Subject: Proficiency Determination, Contract Counsel	Policy No.: 135
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1.0 POLICY

1.1 Each contract attorney providing public defender services on behalf of the Office of the State Public Defender (OPD) shall undergo a proficiency determination on a biennial basis (every two years).

2.0 PROCEDURE

- 2.1 The proficiency determination shall be conducted by the OPD Contract Manager or Conflict Coordinator and any combination of the following:
- A. Regional Deputy Public Defender from the region(s) within which the contract attorney renders contract services; and / or
 - B. OPD Training Coordinator; and / or
 - C. Chief Public Defender.
- 2.2 In making the proficiency determination, OPD will observe the contract attorney in court and may obtain information from any of the following:
- A. Clients;
 - B. The Regional Deputy Public Defender from the region(s) within which the contract attorney renders contract services;
 - C. Judges and other court personnel;
 - D. Faculty from any training programs which the contract attorney attends during the preceding contract year.
- 2.3 The contract attorney will provide OPD with a copy of the CLE affidavit submitted to the State Bar annually.
- 2.4 A new "experience survey" will be submitted if the contract attorney wishes to provide services in a new practice area.
- 2.5 OPD shall meet with the contract attorney every two years as part of the biennial proficiency determination.

3.0 PROFICIENCY DETERMINATION

- 3.1 Upon completion of the proficiency determination, OPD shall certify the contract attorney's proficiency within any area of public defense law in Montana unless OPD determines that the contract attorney is not proficient in one or more areas.
- 3.2 If OPD certifies proficiency, the Contract Manager, Conflict Coordinator or designee will sign the proficiency evaluation, and it will be filed in the contract attorney's file in the Central Office.
- 3.3 If OPD determines that the contract attorney is not proficient:
- A. OPD shall immediately inform the contract attorney of its determination;

- B. OPD shall recommend remedial training or other steps aimed at permitting the contract attorney to attain proficiency;
- C. The contract attorney may request a meeting with the Chief Public Defender and may also submit a written objection.

4.0 RECORDS

Originals of all records generated in the course of the proficiency determination process will be placed in the contract attorney's OPD file and maintained throughout the duration of time that the contract attorney is rendering professional services for the OPD, and then for as long as required by the records retention policy.

5.0 CLOSING

Questions about this policy should be directed to OPD at the following address:

Office of the State Public Defender
Administrative Service Division
44 West Park
Butte, MT 59701
Phone 406-496-6080

Annual Proficiency Determination for OPD Contract Counsel

Contract Attorney Name: _____ Region(s): _____

Regional Deputy Public Defender(s): _____

Areas of Practice (check all that apply): DC DN DJ DG DI TK

CLE Affidavit Received and Reviewed: _____ by _____
Date Contract Manager or Designee

Court Appearance	<i>Dress / Attitude</i>	<i>Courtroom Presence</i>	<i>Preparedness</i>	<i>Timeliness</i>	<i>Substance of Argument</i>	<i>Grasp of Issues</i>	<i>Type of Case/Hearing/Trial/Initial Appearance/</i>
Excellent/Good							
Satisfactory							
Non-Satisfactory							
Unacceptable							

Please list any comments:

- A. Comments from Client(s), if any:

- B. Comments from Judges and/or Court Personnel, if any:

- C. Comments from Regional office Personnel, RDPD, if any:

- D. Comments from Central Office (billing, claim forms completed properly, claims submitted in timely manner...), if any:

The Office of the State Public Defender certifies that the above-named contract attorney is proficient in the following areas of practice: DC DN DJ DG DI TK

_____ Date Contract Manager or Designee

The Office of the State Public Defender certifies that the above-named contract attorney is NOT proficient in the following areas of practice: DC DN DJ DG DI TK

_____ Date Contract Manager or Designee

OPD recommends the following remedial action be completed within 90 days:

I agree OR I disagree with the above determination. I understand that if I disagree, I may file a written objection with the Chief Public Defender.

_____ Date Contract Attorney