

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 an annual basis.

2.0 PROCEDURE

2.1 The proficiency determination shall be conducted by a combination of the following:

- A. OPD Contract Manager; and
- B. Regional Deputy Public Defender from the region within which the contract attorney renders contract services; and/or
- C. OPD Training Coordinator; and/or
- D. 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 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 OPD shall meet with the contract attorney once a year as part of the annual proficiency determination.

3.0 PROFICIENCY DETERMINATION

3.1 Upon completion of the annual proficiency determination, OPD shall certify the contract attorney's proficiency within any area of public defense law in which they practice unless OPD determines, following the annual proficiency determination, that the contract attorney is not proficient in one or more areas.

3.2 If OPD certifies proficiency, the Contract Manager or his 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 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 Observation: _____ by _____
Date Name/Title

Comments: _____

Other Noteworthy Information and Source: _____

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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