

Office of the State Public Defender Administrative Policies

Subject: Evaluation of Contracted Counsel	Policy No.: 135
Title: 47	Pages: 2
Section: 1-121(10)	Last Review Date: 11-20-19
Effective Date: 12-6-06	Revision Date: 11-20-19

1.0 POLICY

It is the policy of the Office of State Public Defender (OPD) to evaluate each contract attorney's (Counsel's) performance under their Memorandum of Understanding (MOU) with OPD during the two-year period their MOU is in effect.

2.0 PROCEDURE

2.1 The OPD Contracts Manager (CM) is responsible for ensuring evaluations of each contracted attorney are conducted and documented in accordance with MCA 47-1-121(10) and this policy.

2.2 Counsel's performance under this MOU shall be evaluated using the following criteria:

2.2.1 Counsel's Professionalism;

2.2.2 Counsel's Legal Knowledge;

2.2.3 Counsel's Effectiveness;

2.2.4 Counsel's Efficiency; and,

2.2.5 Counsel's adherence to the terms in their MOU, OPD Policies, OPD Practice Standards, and OPD Procedures.

2.3 The CM shall collect and compile information regarding Counsel's performance under their MOU from the following sources:

2.3.1 OPD Regional Public Defenders, Conflict Managers, and/or Division Administrators that supervise Counsel pursuant to MCA 47-1-121(6) and have assigned at least one case to Counsel in the previous 12 months; and,

2.3.2 Counsel.

2.4 The CM may collect and compile information regarding Counsel's performance under their MOU from the following additional sources:

2.4.1 OPD clients represented by Counsel;

2.4.2 Judges, or other court personnel, who have observed Counsel's representation of OPD Clients;

2.4.3 Other OPD staff;

2.4.4 Training faculty from any OPD sponsored trainings which Counsel attended;

2.4.5 Any other individual or source that may have relevant information regarding Counsel's performance under their MOU.

- 2.5** The CM shall prepare a written summary of information collected and compiled regarding Counsel's performance under their MOU.
- 2.6** The CM shall ensure Counsel is provided a copy of the written summary and an opportunity to discuss the summary with the CM, in person or remotely.
- 2.7** If the information collected during the performance evaluation demonstrates or implies Counsel is not providing competent and effective representation to OPD clients, the CM shall notify the appropriate OPD supervising attorney, who shall take appropriate case-related action. Regardless of any action taken by the supervising attorney, the CM may suspend or limit Counsel's ability to receive new assignments, may require remedial measures prior to new assignments, may terminate Counsel's MOU with OPD, or may take any other reasonable and appropriate administrative action.

3.0 RECORDS

The CM shall ensure the written summary of Counsel's performance under their MOU is added to Counsel's MOU contract file within eMACS, which is retained within eMACS during the time the MOU is in effect, and then for as long as applicable State records retention policies require.

4.0 CLOSING

Questions about this policy should be directed to:

Office of the State Public Defender
Central Services Division
44 West Park
Butte, MT 59701
(406) 496-6080