

Practice Standards

December, 2012

Section IV, Administration of Defender Services

5. Proficiency Determination for Contract Attorneys

- A. Each private attorney providing contract/conflict services to the Montana Office of the State Public Defender shall undergo a proficiency determination biennially.
- B. The proficiency determination will be conducted by the OPD Contracts Manager or the Conflict Coordinator. The Chief Public Defender, OPD Training Coordinator, and the Regional Deputy Public Defenders may assist in the proficiency determination.
- C. In conducting the determination, the contract attorney will be observed in court and information may be obtained from clients, the Regional Deputy Public Defender in any region in which the contract attorney renders public defender services, judicial personnel and faculty from training the contract attorney attends during the preceding contract year.
- D. The contract attorney will meet with OPD during the determination process.
- E. The contract attorney will provide OPD with a copy of the CLE affidavit filed annually with the State Bar. A new “experience survey” will be submitted if the contract attorney wishes to provide services in a new practice area.
- F. Upon the completion of the determination process, OPD shall certify the contract attorney’s proficiency within all applicable areas of public defense law.
- G. A proficiency certification will be signed by the contract attorney and the Contracts Manager or Conflict Coordinator.
- H. If the contract attorney is determined to not be proficient in an area of public defense law, OPD will recommend remedial steps to obtain proficiency. The contract attorney may file an objection with the OPD and meet with the Chief Public Defender.

Section IV. 5. was amended to change the proficiency determination from annual to biennial; to require a copy of the CLE affidavit instead of an annual experience survey; and to allow the conflict coordinator to participate in the proficiency determination process. Amendments adopted at the [August 29, 2011](#) Commission meeting.