

TO BE RESCINDED

120-1-10

Attorney qualifications and training.

- (A) Assignment systems should be independent from individual influence or choice by any member of the judiciary, prosecution, or other elected official. Assignments should be distributed as widely as possible among members of the bar on a rotary system designed to pair the defendant's level of offense with attorneys who meet the qualifications for assignment.
- (B) A county shall receive reimbursement for defense costs from the state public defender only when attorneys representing indigent clients meet the qualification and training standards approved by the Ohio public defender commission, including the following minimum qualifications:
- (1) Where the juvenile or adult defendant is charged with aggravated murder with death penalty specifications, or has been convicted and sentenced to death, any attorney appointed for trial, appellate, post-conviction or habeas corpus representation must meet the qualifications set forth in Rule 20 of the Ohio supreme court rules of superintendence and must appear on the list of attorneys qualified to accept appointments in capital cases promulgated by the Rule 20 committee, or have a waiver of pre-qualification issued by the Rule 20 committee.
 - (2) Where the defendant is charged with murder or aggravated murder without specifications, counsel shall possess:
 - (a) At least three years of experience as an attorney, and prior jury trial experience as trial counsel in two first degree felony or aggravated felony trials, or
 - (b) At least three years of experience as an attorney, and prior experience as trial counsel in ten or more jury trials, at least one of which was for a felony of the first degree.
 - (3) Where the defendant is charged with a felony of the first degree or second degree, other than murder or aggravated murder, counsel shall possess:
 - (a) At least two years of experience as an attorney, and
 - (b) Prior experience as trial counsel in two or more first degree, second degree, or third degree felony trials, at least one of which was a jury trial.

- (4) Where the defendant is charged with a felony of the third degree, counsel shall possess:
 - (a) At least one year of experience as an attorney, and
 - (b) Prior experience as trial counsel in at least one fourth degree or fifth degree felony trial, at least one of which was a jury trial.
- (5) Where the defendant is charged with a felony of the fourth or fifth degree, counsel shall possess:
 - (a) Prior experience as trial counsel or co-counsel in at least one jury trial;
 - (b) Prior completion of a training program on criminal practice and procedure which is certified for continuing legal education credit by the Ohio supreme court commission on continuing legal education and approved for purposes of this section by the Ohio public defender; or
 - (c) Prior successful completion of a clinical legal education program focusing on criminal defense.
- (6) Where the defendant is charged with a misdemeanor, counsel shall possess:
 - (a) Prior completion of a training program on criminal practice and procedure which is certified for continuing legal education credit by the Ohio supreme court commission on continuing legal education and approved for purposes of this section by the Ohio public defender; or
 - (b) Prior successful completion of a clinical education program focusing on criminal defense.
- (7) Where the defendant is a juvenile charged with murder or aggravated murder without specifications, counsel shall possess:
 - (a) At least three years of experience as an attorney, and prior jury trial experience as trial counsel in two first degree felony or aggravated felony trials, or
 - (b) At least three years of experience as an attorney, and prior experience as trial counsel in ten or more jury trials, at least one of which was for a

felony of the first degree.

- (8) Where the defendant is a juvenile charged with a felony where a petition to transfer to common pleas court or a motion for bind over proceeding has been filed, counsel shall possess prior experience as trial counsel in at least two criminal jury trials or have co-counsel who has done so.
- (9) Where the defendant is a juvenile charged with a crime and the prosecutor has initiated a serious youth offender proceeding, counsel shall possess:
 - (a) Prior experience as trial counsel in at least two criminal jury trials; or
 - (b) Prior experience as trial counsel in at least two serious youth offender jury trials; or
 - (c) Have co-counsel who meet the above referenced qualifications.
- (C) Prior to the appointment or at the time of appointment, the court may submit counsel's qualification information to the Ohio public defender. This process will allow the court to determine whether counsel qualifies under this rule of the Administrative Code and is in compliance with the Ohio public defender standards and guidelines for reimbursement prior to the submission of a bill.
- (D) The respective courts and county and joint county public defender commissions shall be free to adopt local rules requiring qualifications in addition to the minimum standards established by this rule.

Effective:

Five Year Review (FYR) Dates: 06/22/2015

Certification

Date

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