

**REGULATIONS FOR APPOINTMENT OF COUNSEL IN THE
TWELFTH JUDICIAL DISTRICT
IN CASES UNDER THE INDIGENT DEFENSE SERVICES ACT**

I. Applicability

A. Generally

These regulations are issued pursuant to Rule 1.5 of the Rules for the *Continued Delivery of Services in Non-Capital and Non-Criminal Cases at the Trial Level*. They apply to all non-capital criminal and non-criminal cases in the trial division in the Twelfth Judicial District in which the provision of counsel is subject to the Indigent Defense Services Act of 2000 (G.S. 7A-498 through 7A-498.8) (hereinafter “IDS Act”).

B. Exceptions

1. In cases in which the defendant is charged with first-degree murder, an undesignated degree of murder, or an offense filed contemporaneously with or subsequently joined with such murder charges, the court shall appoint the Office of Indigent Defense Services (“IDS Office”), which shall appoint counsel in accordance with the *Rules for Providing Legal Representation in Capital Cases*. However, the court shall appoint the Public Defender in the Twelfth Judicial District in cases in which the defendant or respondent was 17 years of age or younger at the time of the alleged offense and is not eligible for the death penalty; in such cases, the Public Defender shall appoint an attorney from his or her office or a private attorney from the appropriate list.

2. In cases in which a person is entitled to appointed counsel pursuant to G.S. 7A-451 with respect to appeal to the appellate division from an adverse ruling in the trial division, the court shall appoint the Office of Appellate Defender, which shall appoint counsel in accordance with the *Rules for Providing Legal Representation in Non-Capital Criminal Appeals and Non-Criminal Appeals*. The only exception to this procedure is in cases in which a death sentence has been returned, where the appellate entries made by the court shall reflect that appeal is taken by operation of law and that the Director of the IDS Office has appointed the Office of Appellate Defender. *See* Rule 2B.2(a) of *Rules for Providing Legal Representation in Capital Cases*.

II. Administration of Regulations

The Public Defender in the Twelfth Judicial District (hereinafter “Public Defender”) is responsible for administering these regulations. The Public Defender shall coordinate with the court and the local bar to ensure that these regulations are applied in a fair and impartial manner.

The Public Defender shall designate a member of his or her staff as Administrator of these regulations to keep current the lists of attorneys eligible for appointment and perform such other duties as the Public Defender may determine.

III. Determination of Entitlement to Counsel

In each case subject to these regulations the court shall, pursuant to G.S. 7A-452(a) determine whether a person is entitled to have counsel appointed to represent him or her in the particular case. In cases in which the person must be indigent to receive counsel, the court shall determine indigency. When these regulations describe the functions that a court performs, the term “court” includes the Clerk of Superior Court.

Entitlement to the appointment of counsel begins as soon as practicable after the indigent is taken into custody or is served with the warrant, notice, or other initiating process. Whenever a person is entitled to the appointment of counsel but the appropriate court is not in session and will not be in session within the next 48 hours, the Clerk of Superior Court shall make a determination of indigency and shall appoint counsel as provided by G.S. 7A-452(c) and these regulations. Appointment of counsel with respect to a particular charge or proceeding shall continue until final disposition of that charge or proceeding at the trial level, including all critical stages thereof as set forth in G.S. 7A-451(b), unless the attorney is relieved of his or her appointment by the court.

IV. Appointment of Public Defender’s Office

A. Cases Covered

Upon determining that a person is entitled to counsel in the matters listed below, the court shall appoint the Public Defender to represent the person:

1. Defendants in criminal cases;
2. Defendants responding to show cause orders for contempt of court (but not in child support contempt matters);
3. Defendants in non-capital motions for appropriate relief in which the court has found that sufficient grounds exist so as to entitle the defendant to a hearing;
4. A hearing for revocation of probation;
5. A hearing in which extradition to another state is sought; and
6. Juveniles in cases in which the juvenile is alleged to be delinquent.

Upon being appointed as counsel, the Public Defender shall assign the case to an assistant public defender or to private counsel as provided in Article V, below.

B. Notice to Client

In cases assigned to the Public Defender, the court shall provide instructions to the

client, in a form provided by the Public Defender, on contacting the Public Defender. If the court appoints the Public Defender for an incarcerated person via audio-video transmission, the court shall provide such notice to the person through the Sheriff's Department.

C. Conflicts

If the court at the time of determining a person's entitlement to counsel in any of the matters listed above, finds that the public defender's office has a conflict of interest, the court shall appoint private counsel as provided in Article VI, below.

D. Preliminary Determination

Prior to the court's determination of entitlement to counsel in any of the matters listed above, the Public Defender may pursuant to G.S. 7A-452(a) tentatively assign an attorney from his or her office to represent a person whom the Public Defender determines is entitled to counsel. To help assure the prompt appointment of counsel for in-custody persons, the authority having custody of a person who is without counsel for more than 48 hours after being taken into custody shall so inform the Public Defender pursuant to G.S. 7A-453(a). Tentative appointments by the Public Defender under this provision are subject to later approval of the court.

V. Assignments by Public Defender

A. Determination

As soon as practicable after learning of an appointment, the Public Defender shall determine whether to assign the case to an assistant public defender or to private counsel. Subject to standards approved by the Office of Indigent Defense Services, the Public Defender may assign cases to private counsel based on, among other factors, the caseloads of the assistant public defenders in his or her office and when in the best interests of justice. If the Public Defender assigns a case to private counsel, he or she shall record the reasons for doing so.

B. Conflicts

If after being appointed by the court the Public Defender finds that his or her office is unable to handle a case because of a conflict, the Public Defender shall assign the case to private counsel in accordance with the regular rotation schedule approved in these regulations and any criteria approved by the Office of Indigent Defense Services. If the Public Defender has appeared in the case before discovering a conflict, the Public Defender shall move to withdraw before assigning the case to new counsel.

C. Order of Appointments

1. The Public Defender shall maintain in his or her office lists of attorneys, duly qualified pursuant to Articles VIII and IX below, to handle cases appointed by the Public Defender. Such lists shall be made reasonably available to the public upon request.

2. If the Public Defender finds that the case should be assigned to private counsel, the Public Defender shall assign an attorney from the appropriate list. No appointment shall be made by the Public Defender of an attorney whose name does not appear on one of the lists on file with the Public Defender's Office, except in exceptional circumstances and in the best interests of justice the Public Defender may appoint an attorney who is not on the list with the attorney's consent.

3. The Public Defender shall assign attorneys in the sequence in which they appear on the list except as permitted by these regulations. The Public Defender may appoint an attorney who is not next in sequence if an attorney is unavailable, an attorney has a conflict, another attorney is representing the particular client, or the interests of justice require the appointment of a specific attorney instead of the next available attorney. The Public Defender may, in the interests of judicial economy, assign cases to attorneys in "lots." If so, the Public Defender will establish specific guidelines for such assignments to ensure that assignments will continue to be made sequentially to attorneys on the appropriate lists and fairly and evenly distributed to the bar. If the Public Defender passes over the name of an attorney for a reason other than the attorney's unavailability, the Public Defender should return to that attorney for the next appointment if possible.

4. The Public Defender shall make a record of appointments and make the same reasonably available to the public on request. If the Public Defender appoints an attorney who is not next in sequence or not on the list, the Public Defender shall record the reasons for doing so.

D. Notice

If the Public Defender assigns an assistant public defender to a case, the Public Defender shall enter that information in the Criminal Information System. If the Public Defender assigns a case to private counsel, the Public Defender shall furnish a notice of appointment to the attorney by fax, e-mail, or other appropriate method, and shall enter the appointment information in the Criminal Information System. The Public Defender shall file the notice of appointment of private counsel with the Clerk of Superior Court. Upon assigning a case private counsel, the Public Defender shall furnish to the client instructions about contacting his or her attorney, and appointed private counsel shall notify the client of the attorney's appointment to the case.

E. Withdrawal

Once the Public Defender has issued a notice of appointment of private counsel and filed it with the clerk, only the court may permit the attorney to withdraw. If the court

permits the attorney to withdraw, the private counsel shall obtain the next named attorney on the appropriate list in the Public Defender's Office, and provide that name to the court for appointment of substitute counsel.

F. Multiple Counsel

1. In assigning cases to private counsel, the Public Defender should appoint the same attorney on all pending matters concerning the defendant or respondent if the attorney is on the appropriate list. Where a criminal defendant is discharged after a finding of no probable cause in District Court but is later indicted in Superior Court, to the extent possible, the attorney appointed in District Court should be appointed to represent that defendant on the charge in Superior Court if he or she is qualified to do so under Article VII of these regulations. However, if new charges are brought against a former criminal defendant after disposition of unrelated previous charges, there shall be no presumption that the attorney who represented the defendant on the previous charges should be appointed to represent that defendant on the new charges.

2. If an attorney is appointed to represent a client on one matter, and the attorney learns that the client requires representation on another matter for which the attorney is not on the appropriate list, the attorney shall notify the Public Defender. If requested by the Public Defender, the attorney shall move to withdraw from the case so that all of the matters can be appointed to other counsel who is on all of the appropriate lists.

3. If no single attorney is on all of the appropriate lists, the attorneys appointed to represent the client shall consult with each other to assure that the client's interests are protected.

G. Requests for Substitution of Counsel

For good cause, the Public Defender may request that a judge of a court of competent jurisdiction replace counsel previously appointed by the Public Defender with new counsel selected by the Public Defender.

VI. Appointment of Private Counsel by Court

A. Cases Covered

For persons entitled to counsel in non-criminal matters, and for those not otherwise assigned to the Public Defender Office under IV. above, the court shall appoint counsel in accordance with the procedures described in this article.

B. Order of Appointments

1. The Public Defender shall prepare and maintain master lists of attorneys on the respective criminal lists for appointment of counsel. The Clerk of Superior Court shall

maintain master lists of attorneys, prepared by the Public Defender under VIII., below, for the respective non-criminal lists for appointment of counsel. When an appointment is to be made to private counsel in a criminal case by either the district or superior court, the Public Defender's Office shall be contacted in order to obtain the name of the next person on the master lists. For any non-criminal matters, the Clerk of Superior Court shall be contacted in order to obtain the name of the next person on the master lists.

2. If the court determines that a person is entitled to counsel, the court shall assign an attorney from the appropriate list. No appointment shall be made by the court of an attorney whose name does not appear on one of the master lists on file with the Public Defender's Office or Clerk of Superior Court; however, in exceptional circumstances only, the court may appoint an attorney who is not on one of the master lists with the attorney's consent.

3. The court shall assign attorneys in a strict rotation in the sequence in which they appear on the list except as permitted by these regulations. However, the court has inherent authority to appoint an attorney who is not next in sequence on the list if an attorney is unavailable, an attorney has a conflict, another attorney is already representing the particular client, or the interests of justice require that a specific attorney be appointed rather than the next available attorney. If the court passes over the name of an attorney for a reason other than the attorney's unavailability, the court shall return to that attorney for the next appointment to the extent administratively feasible.

4. The court shall record on a form provided by the Public Defender the appointments it makes and shall provide the record to the Public Defender on a monthly basis. If the court appoints an attorney who is not next in sequence or not on a list, the court shall record the reasons for doing so. This record shall be made available to the public upon request to the Public Defender.

C. Notice

Upon assigning a case to private counsel, the clerk shall furnish the notice of appointment to the attorney and shall furnish to the client on a form provided by the Public Defender instructions about contacting his or her attorney. If the court appoints a private attorney for an incarcerated person via audio-video transmission, the clerk shall provide notice to the person about contacting his or her attorney. In abuse, neglect, or dependency and termination of parental rights proceedings, the court or clerk shall also forward the summons and petition to the appointed attorney by the most expeditious means possible.

D. Multiple Counsel

1. In assigning cases to private counsel, the court shall seek to appoint the same attorney on all pending matters concerning the defendant or respondent if the attorney is on the appropriate list.

2. If an attorney is appointed to represent a client on one matter, and the attorney learns that the client requires representation on another matter for which the attorney is not on the appropriate list, the attorney shall notify the court. The court may remove the attorney from the case so that the court may assign all of the matters to other counsel who is on all of the appropriate lists.

3. If no single attorney is on all of the appropriate lists, the attorneys appointed to represent the client shall consult with each other to assure that the client's interests are protected.

VII. Committee on Indigent Appointments

A. Establishment of Committee

1. There is hereby established the Committee on Indigent Appointments (hereinafter "Committee") to assist the Public Defender with the implementation of these regulations. The Public Defender, or his/her designee, shall serve as chair and be a permanent member of the Committee and shall consult with the Committee as described herein. The failure of any of the appointing authorities to make the appointments described below, or the failure of the Committee or any subcommittee, to meet or do any of the things authorized by these regulations, shall not preclude the Public Defender from performing any of the duties or taking any of the actions authorized by these regulations.

B. Membership of Committee and Terms

The following shall constitute the membership of the Committee:

- a. Two positions designated as Senior Resident Judge positions, to be appointed by the Senior Resident Judge.
- b. Two positions designated as District Court Judge positions, to be appointed by the Chief District Court Judge.
- c. Two positions designated as Twelfth Judicial District Bar positions, to be appointed by the President of the Twelfth Judicial District Bar.
- d. One position held by the Public Defender or his/her designee.

After the initial Committee is formed, any vacancy occurring will be filled by appointment by the appropriate appointing authority. Any member who resigns or becomes otherwise ineligible to continue serving as a member should be replaced for his or her term as soon as possible. Members of the Committee shall be appointed for terms of two years.

C. Qualifications

Other than the Public Defender or assistant public defenders, members of the Committee shall be attorneys who:

1. Are included on one of the appointment lists;
2. Have practiced in one or more of the areas covered by the appointment lists for not less than two years in the Twelfth Judicial District; and
3. Are knowledgeable about practicing attorneys in the Twelfth Judicial District.

D. Meetings

1. The Committee shall meet at the call of the chairperson upon reasonable notice. The committee shall meet as often as is necessary to dispatch its business, but not less than quarterly, and the committee shall review and update the attorney lists at least quarterly or sooner if necessary. The Public Defender shall act on matters outstanding as of November 1, 2001, and take any necessary actions thereafter that he deems appropriate, until an initial meeting of the Committee can be held.
2. A majority of the Committee must be present at any meeting in order to constitute a quorum. The Committee may take no action unless a quorum is present. A majority vote of the members present in favor of a motion or any proposed action shall be required in order for the motion to pass or the action to be taken.

E. Responsibilities

The Public Defender is responsible for determining the eligibility of attorneys for appointment to cases under these regulations. In discharging this responsibility, the Public Defender shall in consideration of the recommendations of the committee and any subcommittee, accomplish the following:

1. Review requests from attorneys concerning placement on the various appointments lists.
2. Decide on the placement or removal of attorneys from the various appointment lists.
3. Decide on the number and type of lists and qualifications to be on the lists.
4. Make any other decisions regarding the operation of the local indigent defense program.

In consultation with the Committee, the Public Defender shall establish procedures for the carrying out of the Committee's business, including establishing such subcommittees as may be necessary to assist the Committee. Such subcommittees may consist of people who are not members of the Committee.

F. Administrative Assistance

The Administrator of these regulations designated by the Public Defender shall assist the Committee and any subcommittees in performing their duties, including as necessary notifying Committee members of meetings, providing them with materials pertinent to their business, and maintaining records relating to the actions of the Committees.

VIII. Placement of Attorneys on Lists

A. Application

1. Any attorney who wishes to have his or her name added to any list shall file a written request with the Administrator on a form provided by the Administrator. The request shall include information that will facilitate the Public Defender's and Committee's determination whether the attorney meets the standards set forth in Article IX for placement on the list. All materials required by Article IX must be attached to the request.

2. An attorney who wishes to have his or her name removed from a list shall file a written request with the Administrator, and the Administrator shall remove the attorney's name from the list and notify the court and any other interested parties. If an attorney has had his or her name removed from a list, the attorney must reapply to be on that list.

3. An attorney who wishes to transfer from one list to another shall file a written request with the Administrator on a form provided by the Administrator. The request shall be granted if the attorney wishes to transfer to a list for which the attorney has already met the qualifications by virtue of being on the list from which the attorney is being removed (for example, the attorney wants to transfer from List 3 to List 2 or List 1). All other requests shall include the materials required by Article IX and any other information that will facilitate the Public Defender's and Committee's determination whether the attorney meets the standards set forth in Article IX for placement on the particular list.

B. Addition to List

In consultation with the Committee, the Public Defender shall determine whether the attorney meets all of the applicable standards in Article IX. The Public Defender shall assure that the requesting attorney is given prompt written notice of the action taken with respect to his or her request and is advised of the basis for denial if the request is not granted.

The Public Defender shall afford the Committee the opportunity to review each request by an attorney to be added to a list and to recommend to the Public Defender whether the attorney should be added to the list. The Public Defender may request that an attorney applicant submit additional information, including appearing before the Committee to be interviewed. Any member of the Committee may discuss requests with other members of the bar and the bench and may relate information obtained thereby to other members of the Committee. By applying to be included on a list, an attorney applicant consents to the confidentiality of such inquiries. The Committee may hold a request in abeyance for a reasonable period of time while obtaining additional information.

C. Removal from List

In consultation with the Committee, the Public Defender may remove an attorney from a list if at any time an attorney no longer meets the standards set forth in Article IX for the list on which he or she is placed, does not meet the performance standards in Article XI, or otherwise fails to meet the responsibilities of representation including, but not limited to, billing in compliance with the Rules of the Commission on Indigent Defense Services, all local rules, and the Revised Rules of Professional Conduct. However, if the Public Defender finds that one of these conditions exists, but is temporary and remediable, the Public Defender may temporarily suspend the attorney from the list. With the attorney's consent, the Public Defender may place the attorney's name on a list for which the attorney is qualified by virtue of being on the list from which the attorney is removed.

The Public Defender shall afford the Committee an opportunity to consult with the Public Defender before an attorney is removed from a list; however, the Public Defender may suspend appointments to an attorney before consulting with the Committee if the Public Defender determines that such action is necessary to assure quality representation.

D. Requests for Review

Requests for review from decisions denying placement of an attorney on a particular list or removing an attorney from a list shall be made to the Director of the Office of Indigent Defense Services or his or her designee. Requests shall be in writing and postmarked within 15 days of when the attorney receives notice of the decision.

IX. Lists of Attorneys

A. General Requirements

Attorneys currently on lists for appointment in indigent cases will not need to reapply to remain on the corresponding lists. Otherwise, to be eligible to be included on any of the lists provided for herein, an attorney must:

1. Be licensed to practice in North Carolina;
2. Maintain an office in the 12th Judicial District or otherwise demonstrate to the Committee that he or she will be available to the court and to clients;
3. Have a working fax or e-mail; and
4. Submit an application to be placed on the particular list and be approved as provided in Article VIII, above.

B. Provision of Lists

The Public Defender or his or her designee shall make available to the court, the clerk, and members of the bar, the current lists of attorneys subject to appointment in the

Twelfth Judicial District. The Public Defender or his or her designee shall update the lists at least every three months to reflect additions, deletions, or other changes.

C. Lists

List 1: Misdemeanor Cases and Misdemeanor Probation Violations

Attorneys on List 1 will represent indigent persons accused of misdemeanors in all proceedings before the district court. They will also represent respondents in show cause orders alleging contempt in district court criminal proceedings (but not in child support contempt matters). Attorneys who are appointed misdemeanors in district court shall continue their representation of the defendant on de novo appeal in superior court.

Requirements: To qualify for List 1, the applicant must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in misdemeanor cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

List 2: Felonies F through I and Felony Probation Violations

An attorney on List 2 will represent indigent persons accused of felonies from classes F through I in the District and Superior Courts. An attorney on List 2 will also be appointed to represent existing clients on new or pending misdemeanor charges, including, if necessary, trial de novo if the client exercises his or her right to a jury trial.

Requirements: To qualify for List 2, an applicant attorney must have been licensed to practice law for at least two (2) years and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in felony cases and will apply that knowledge and skill with appropriate thoroughness and preparation. The applicant must also demonstrate that he or she is competent to try a superior court case before a jury and otherwise has the ability to handle felony cases in superior court. The applicant must have tried at least one (1) jury trial to verdict. As an alternative, the applicant may show completion of at least twelve (12) hours of continuing legal education in the area of criminal jury trials.

List 3: Felonies A to E

Attorneys on List 3 will represent defendants charged with felonies from class B1 to E and Class A felonies subject to I.B., above. A lawyer on List 3 will also be appointed to represent the client on new misdemeanors or noncapital felony charges of any class or misdemeanors or noncapital felony charges of any class pending at the time of the original appointment on the felony cases. The attorney will also be expected to represent any misdemeanor client who exercises the right to trial de novo in superior court after conviction of a misdemeanor in district court.

Requirements: To qualify for List 3, an applicant attorney must have been licensed to

practice law for at least three (3) years and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in serious felony cases in superior court and will apply that knowledge and skill with appropriate thoroughness and preparation. The applicant must have tried as lead counsel or individually at least three jury trials to verdict.

List 4: Delinquent Juvenile Cases

Attorneys on Lists 4A, 4B, and 4C will represent juveniles alleged to be delinquent or in Chapter 5A contempt in the juvenile courts.

Requirements: To qualify for List 4A, 4B, or 4C an applicant attorney must meet the requirements set forth in Appendix A to this document, which is incorporated herein by reference.

The Public Defender may limit the number of attorneys allowed on the list to encourage attorneys to agree to handle these cases, and to ensure that attorneys on the list have the special skill and knowledge required for these cases.

List 5: Abuse, Neglect, Dependency and Termination of Parental Rights Juvenile Cases

Attorneys on List 5 will represent parents in abuse, neglect, and dependency cases and in proceedings to terminate parental rights in the juvenile courts.

In any case in which a petition for termination of parental rights is filed, the court shall unless good cause exists not to do so appoint the same attorney to represent the parent in the termination proceeding if the parent has been represented by that attorney in the abuse, neglect, and dependency proceeding.

Requirements: To qualify for this list attorneys must be familiar with the relevant specialized area of law, including the North Carolina Juvenile Code, and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in the cases in this category and will apply that knowledge and skill with appropriate thoroughness and preparation.

The Public Defender may limit the number of attorneys allowed on the list to encourage attorneys to agree to handle these cases, and to ensure that attorneys on the list have the special skill and knowledge required for these cases.

List 6: Special Proceedings Counsel

Attorneys on List 6 will represent the following:

- a. Respondents in involuntary commitment proceedings;
- b. Persons alleged to be incompetent under Chapter 35A;

- c. Minors requesting a judicial waiver of parental consent to abortion; and
- d. Disabled adults as defined in Chapter 108 of the North Carolina General Statutes.

Requirements: To qualify for List 6 the attorney must be familiar with the relevant specialized areas of law, and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in cases listed in each category and will apply that knowledge and skill with appropriate thoroughness and preparation.

The Public Defender may limit the number of attorneys allowed on the list to encourage attorneys to agree to handle these cases, and to ensure that attorneys on the list have the special skill and knowledge required for these cases.

List 7: Child Support Enforcement Actions

Attorneys on List 7 agree to accept child support enforcement cases representing the child support obligor or the person attempted to be held in contempt for whatever purpose.

Requirements: To qualify for List 7 the attorney must be familiar with Chapter 50 and Chapter 110 of the North Carolina General Statutes and other relevant law on child support enforcement, and must demonstrate that he or she has the required legal knowledge and skill necessary for the representation in child support enforcement cases and will apply that knowledge and skill with appropriate thoroughness and preparation.

The Public Defender may limit the number of attorneys allowed on the list to encourage attorneys to agree to handle these cases, and to ensure that attorneys on the list have the special skill and knowledge required for these cases.

X. Performance Standards

Attorneys on the Indigent Appointment Lists are expected to provide quality representation for all clients. Minimum standards of representation include, but are not limited to the following:

1. Must maintain regular contact with clients and keep them fully informed as to the status of their cases.
2. Must appear in court on their clients' court dates, absent justifiable excuse (e.g., illness, jury trial, etc.). If scheduling conflicts arise, an attorney should resolve them in accordance with Rule 3.1 of the General Rules of Practice.
3. Must report a North Carolina State Bar complaint that has been lodged against the attorney within five (5) days of the attorney's answer to the complaint and inform the Committee, in writing, of the result of any North Carolina State Bar disciplinary action.
4. Shall not receive anything of value from anyone in connection with representation under these regulations during the period of representation, except as permitted by

IDS Rule 1.9(e).

5. Must visit with incarcerated clients within 72 hours after notification of appointment, absent justifiable excuse. If necessary, counsel may arrange for a designee to conduct the initial interview.
6. Must advise clients on a timely basis of the right to appeal, either for trial de novo or to the appropriate appellate court and, if the client elects to appeal, the attorney must enter notice of appeal for the client. If notice of appeal is to the superior court, the attorney shall continue his or her representation of the client in superior court. If notice of appeal is to the appellate courts, the attorney shall assist the defendant in applying for assistance of appellate counsel.
7. Must provide competent representation of clients.
8. Must adhere to the Rules of Professional Conduct of the North Carolina State Bar.

Failure to provide minimum standards of representation as set forth above may lead to the removal of the attorney from the appointment lists.

XI. Miscellaneous

Nothing in these regulations shall be construed or applied inconsistently with the IDS Rules or with other provisions of law. Nothing in these regulations shall preclude the Office of Indigent Defense Services from adopting and enforcing standards and rules that supplement or supercede these regulations or from implementing programs, plans, or contracts regarding the assignment of counsel to improve quality, efficiency, and economy.

The Public Defender shall provide to the Office of Indigent Defense Services such reports and records as may from time to time be required by the Office.

The Public Defender may modify this plan with the approval of the Office of Indigent Defense Services.

XII. Adoption and Certification

These regulations were adopted by Public Defender Ronald D. McSwain, and became effective on March 1, 2002.

Section I.B.1. was amended effective December 8, 2004, and effective October 10, 2005. New Section XII. was added effective December 8, 2004. Section I.B.2 and VIII.C. were amended effective October 24, 2006. Section IX., C., List 4 was amended effective November 20, 2006. New Appendix A was added effective November 20, 2006. Section IV.A.3. was amended effective July 8, 2008. Sections III, IV.A.6., V.C.3., V.D., V.F.1., VI.B.2., VI.B.3., VI.C., VII.B., VII.D., VIII.B., VIII.C., VIII.D., IX.A., IX.C. Lists 1, 2, 3, 4, 5, and 6, X., and XI. were amended, and Section IX.C. List 7 was added, effective April 22, 2015.

The regulations and amendments have been approved and certified by the Executive Director of the Office of Indigent Defense Services in accordance with Rule 1.5(b) of the Rules of the Commission on Indigent Defense Services.

APPENDIX A
QUALIFICATION STANDARDS FOR PRACTICE IN
JUVENILE DELINQUENCY COURT IN THE 12TH JUDICIAL DISTRICT¹
(Effective November 20, 2006)

The requirements in Section II of this Appendix apply to attorneys who are in good standing but have not recently practiced in juvenile delinquency court or adult criminal court prior to the adoption of these standards. Exemptions from these requirements are set forth in Section III of this Appendix.

I. Definitions

1. Juvenile delinquency training: Training devoted to juvenile law and procedure, as well as special topics relevant to juvenile court, such as adolescent development, mental health, special education, substance abuse, and cultural issues, provided by an approved training provider.
2. Approved training provider: The Office of the Juvenile Defender, the Office of Indigent Defense Services, the UNC School of Government, the North Carolina Bar Association, the North Carolina Academy of Trial Lawyers, the Children's Law Center, or another entity approved by the Office of the Juvenile Defender or the Office of Indigent Defense Services.
3. Court sessions: One complete day of court in which juvenile delinquency matters are heard, with the length of the day depending on the number of matters docketed.

II. Requirements

List 4A (Class 1-3 Misdemeanors, Motions for Contempt)

Prior to approval:

Experience: The applicant must be a duly licensed attorney and a member in good standing of the North Carolina State Bar.

Observation: The applicant must observe two court sessions in Cumberland County and provide to the Public Defender and local Committee on Indigent Appointment (hereinafter "Committee") a written statement of the dates and times of those sessions.

Court counselor office orientation: The applicant must certify to the Public Defender and Committee that the applicant has spent no less than one hour becoming familiar with the practices and procedures of the court counselor office in Cumberland County, preferably by meeting with the Chief Court Counselor or Court Counselor Supervisor.

¹ These standards do not apply to law students participating in a law school clinic program under the Rules governing the Board of Law Examiners and the Training of Law Students, Subchapter C, Chapter 1, Title 27 of the North Carolina Administrative Code.

Continuing Requirements:

Training: The attorney must complete at least six hours of juvenile delinquency training within the first year of practice in delinquency court, at least four hours of which must be specifically devoted to juvenile law and procedure and thereafter complete at least three hours of training every other year.

Detention facility: Within the first year of practice, the applicant must confer with the director of the nearest juvenile detention facility or the director's designee in person or by telephone and become familiar with detention center policies and procedures and certify compliance to the Public Defender and Committee.

List 4B (Class A1 Misdemeanors, Class F-I Felonies, Probation Violations)

Prior to approval:

Previous requirements: The applicant must have successfully completed all of the requirements of List 4A.

Experience: The applicant must have recently practiced in juvenile delinquency or adult criminal court on a consistent basis for at least one full year.

Continuing requirements:

Training: The attorney must complete at least three hours of juvenile delinquency training every other year the attorney represents juveniles.

List 4C (Class A-E Felonies)

Prior to approval:

Previous requirements: The applicant must have successfully completed all of the requirements of List 4B.

Experience: The applicant must have recently practiced in juvenile delinquency or adult criminal superior court on a consistent basis for at least three years.

Special qualifications: The applicant must be willing to continue to represent a juvenile if the juvenile's case is transferred to Superior Court and be qualified by the Public Defender and Committee to represent adults in felony cases in Superior Court.

Continuing requirements:

Training: The attorney must complete at least three hours of juvenile delinquency training every other year the attorney represents juveniles.

III. Exemptions

Exemptions from the above requirements:

1. For attorneys who are in good standing and have practiced in **juvenile delinquency court** prior to the adoption of these standards, the qualification standards are as follows:

An attorney who wishes to be placed on **List 4A** must have recently practiced in juvenile delinquency court on a consistent basis for at least one full year, and have completed at least two contested juvenile delinquency misdemeanor adjudicatory hearings. Within two years of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to Public Defender and Committee.

An attorney who wishes to be placed on **List 4B** must have recently practiced in juvenile delinquency court on a consistent basis for at least two full years, and have completed at least three contested juvenile delinquency hearings, including at least one misdemeanor adjudicatory hearing and one felony adjudicatory hearing. Within two years of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4C** must have practiced in juvenile delinquency court for at least three full years, and have completed at least six contested juvenile delinquency hearings, including at least two felony adjudicatory hearings (one of which must be a Class A through E felony) and at least two hearings where the juvenile could potentially have been committed to a youth development center. Within two years of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee. The attorney also must be willing to continue to represent a juvenile if the juvenile's case is transferred to Superior Court and be qualified by the Public Defender and Committee to represent adults in felony cases in Superior Court.

2. For attorneys who are in good standing and have practiced in **adult criminal court** prior to or after the adoption of these standards, the qualification standards are as follows:

An attorney who wishes to be placed on **List 4A** must have recently practiced in adult criminal (district or superior) court on a consistent basis for at least one full year and have completed the Observation and Court Counselor Office Orientation requirements under List 4A. Within one year of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4B** must have recently practiced in adult criminal (district or superior) court on a consistent basis for at least two full years, and have completed the Observation and Court Counselor Office Orientation requirements under List 4A. Within one year of initial approval, the attorney must complete at least

three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee.

An attorney who wishes to be placed on **List 4C** must have recently practiced in adult criminal superior court on a consistent basis for at least three full years and have completed the Observation and Court Counselor Officer Orientation requirements under List 4A. Within one year of initial approval, the attorney must complete at least three hours of juvenile delinquency training and certify compliance to the Public Defender and Committee. The attorney also must be willing to continue to represent a juvenile if the juvenile's case is transferred to Superior Court, and be qualified by the Public Defender and Committee to represent adults in felony cases in Superior Court.

3. Assistant Public Defenders who are assigned to delinquency court may be exempt from the Experience requirements if: (1) all other requirements under the respective lists are satisfied; and (2) an experienced member of the Public Defender staff is available to assist the assistant public defender when requested.