

STANDARDS, GUIDELINES, AND REGULATIONS

Standards, guidelines, and regulations for the counsel who are appointed to represent indigent persons in criminal cases under Section 120.6 of the Ohio Revised Code shall be as follows:

I. STANDARDS

- (1) Personally interviews clients without delay and confer as often as necessary to elicit matters pertinent to their defense, and in criminal cases meet with clients 48 hours after appointment and no less than once every 20 days while the case is pending
- (2) In those instances wherein the client is incarcerated and you have been assigned the case in Room A you must personally interview the client prior to the Room A proceedings and maintain personal contact with the client both prior to and subsequent to an indictment being returned;
- (3) Appear on the behalf of each client at the Report of the Grand Jury and at each scheduled court appearance after Common Pleas Arraignment prepared to represent each client's interests;
 - a. Be responsible for all matters of representation, whether pre-trial, trial, or **post** sentencing proceedings, in Hamilton County Municipal and Common Pleas Courts, and protecting the clients right to an appeal taken to the First District Court of Appeals, unless permitted to withdraw as attorney of record by the appropriate court;
 - b. Withdraw as counsel only for good cause shown by written motion and upon entry by the Court, immediately notify the Law Office of Hamilton County Public Defender as to same, and confer with succeeding counsel regarding the clients defense;
 - c. Do not solicit or accept compensation from any source other than as provided by the Hamilton County Board of Commissioners' fee schedule, nor accept private employment as retained counsel in any proceeding in which you were originally appointed as attorney of record. Ohio Admin. Code 120-1-16.
- (4) In all cases:
 - a. Promptly advise clients of their rights and take all necessary actions to preserve them;

- b. Diligently and actively participate in the full and effective preparation of each client's case;
- c. Carefully investigate all defenses of fact and of law that may be available to your client, and be prepared to file all motions, such as suppression of evidence, psychiatric evaluation, expert witness, deposition or other motion appropriate to your client's case;
- d. Be concerned with your client's right to reasonable bail pending case resolution.
- e. Immediately notify the Law Office of the Hamilton County Public Defenders of any case in which the seriousness of the alleged offense requires the appointment of counsel having the experience required pursuant to the qualifications set forth by the Ohio Supreme Court, the Ohio Public Defender or the Hamilton County Public Defender.
- f. Utilize the resources available to counsel at the Law Office of the Hamilton County Public Defender, including investigative services, resource center, and mentoring by supervising attorneys or by experienced panel attorneys. Contact the supervising attorneys responsible for your Room A day.
- g. Advise client of collateral consequences of conviction. If client is an immigrant, take special care to advise the client of collateral consequences of conviction.

II. GUIDELINES:

All counsel shall:

- (1) a. Counsel on the Felony Panel are required to arrive in Room A for Panel Assignments prior to 8:00 AM so as to give the Room A Assignment Attorney the opportunity to both assign the cases and to ensure that the client is interviewed. If you are not there in time you should not expect to get any assignments. If you know in advance that you will be unavailable on a particular day date, call the Assignment Supervisor scheduled to be in Room A on your day and advise him of your status.

b. Counsel on the misdemeanor panel are required to arrive in Room A prior to 8:00 a.m. for the morning docket and at 11:30 a.m. for the afternoon docket.
- (2) Be responsible for verifying the income information and for obtaining the client's signature on the Financial Disclosure and Affidavit of Indigency Form that is provided to counsel upon appointment. Submit all vouchers with a fully executed "Affidavit of Indigency" or a "Certification" indicating that such an affidavit is on file within 30 days of the case termination. This office is required to certify the indigency status of each client to the State Public Defender.
- (3) Be responsible for filling-in the top portion of the client's interview sheet with your name and telephone number and complete those items relating to the next action in the case (i.e., Grand Jury report date). In the absence of this information our ability to track the case is very limited. Further, it is important to reflect the bond set to allow us to maintain the file current and up-to-date. Lastly, you must turn in the white copy of the interview sheet to the Public Defender staff in Room A before you leave.
- (4) Trading of assigned days will not be permitted without prior approval from the Deputy Public Defender.
- (5) When appointed in a capital case make sure the trial court files the appropriate Supreme Court form.
- (6) If the circumstance arises where an attorney must leave the panel and withdraw from active cases, that attorney will return the cases to the proper Division Director or to the Deputy Public Defender for case reassignment.

III. REGULATIONS:

All counsel shall:

- (1) Comply with all qualifications, regulations, and standards of the State of Ohio, Ohio Supreme Court, Ohio Public Defenders Commission, and the Hamilton County Public Defenders Commission;
- (2) Maintain active practice registration with the Ohio Supreme Court;
- (3) Maintain active status of private practice of law;
- (4) Maintain private law office within the 275 loop not connected with any other business, wherein you have the ability to meet with clients;
- (5) Secure and maintain professional liability insurance and annually furnish the Office your Insurance Declaration;
- (6) Maintain professional status that is not in conflict with Section 120.39(A) of the Ohio Revised Code;
- (7) Immediately advise the Law Office of Hamilton County Public Defender of any change in status that would result in conflict with these regulations.
- (8) Maintain an active e-mail address and keep the office advised of any changes.
- (9) Every two years on your reporting date have completed at least 12 hours of CLE devoted to criminal law and provide the office written verification of same.
- (10) Engaging Expert Services- Prior to engaging any expert, you must present to the Director of Administration a Motion and Entry for endorsement prior to seeking any authorization from the Court if said authorization is sought.
- (11) I have read and understand the Attorney Qualifications established for appointed counsel as set out O.A.C. 120-1-10 and agree that I am in compliance with the training and experience listed therein.

IV. VOUCHERS

- (1) Due to the loss of State reimbursement, vouchers submitted beyond the 30 days will be reduced 50% or at the discretion of the Public Defender payment may be withheld. Anything submitted beyond 6 months will not be paid.
- (2) An appointed counsel is entitled to one fee when one complete proceeding or trial is held in one court (e.g. Municipal, Common Pleas, Juvenile, etc.) for a single client. For example, you should submit a separate voucher for each court. If there were misdemeanors related to felonies, there should be a voucher for Common Pleas and a voucher for Municipal Court.
- (3) In cases involving multiple charges where only one fee is payable, the fee maximum shall be based on the highest degree of offense charged.
- (4) An attorney representing multiple clients who are charged with conduct arising out of a single incident shall submit only one Motion, Entry, and Certification form for the case. The attorney shall list all clients and their respective case numbers on one Motion, Entry, and Certification form.
- (5) Time billed on one Motion, Entry, and Certification form cannot be billed on any other form for which payment is being requested.
- (6) When one client is charged with multiple offenses that are assigned throughout the court and proceedings are dealt with simultaneously, the attorney shall submit only one Motion, Entry, and Certification form
- (7) In juvenile court cases involving multiple parties, regardless of whether the attorney/GAL represented the children, parents, or other parties in an abuse, dependency, neglect, custody, non-support contempt, or visitation contempt action, the attorney shall list all children and their respective case numbers on one Motion, Entry, and Certification form.
- (8) In abuse, dependency, and neglect cases, the attorney/GAL is entitled to bill the maximum fee allowed by the county for the initial dispositional hearing and each subsequent annual review hearing before the court. Such billings are not considered "periodic billings. (see below)
- (9) **Periodic Billings**
 - a. In cases where proceedings are carried out over an extended period of time, or where multiple trials are held for one case, an attorney may submit more than one bill over the duration of the case.
 - b. Where two or more bills for the same case number are submitted, those with hours listed only under the categories "out-of-court and/or "pre-trial hearings" will be considered periodic billings. When a bill for that case number is then received that contains hours listed as "other in-court", or that has a disposition marked "dismissed", it is considered a final billing.

- c. To determine the maximum amount payable, the totals of all such billings will be added together. Once the maximum has been reached, no additional payment will be paid unless the billing is accompanied by an order granting extraordinary fees.
- d. In abuse, dependency, and neglect cases, attorneys are entitled to bill the maximum fee for the initial dispositional hearing and for each annual review hearing.

(11) **Motions for Extraordinary Fees**

Cases eligible for extraordinary fees are ones which, because of extraordinarily complex issues, multiple offenses, lengthy trials, or other reasons, warrant compensation at a rate which exceeds the maximums established by the Hamilton County Public Defender Commission. The Motion, Entry, and Certification form and a separate entry should be presented to the Hamilton County Public Defender for review and approval. Remember, in the end, the fee to be awarded is within the discretion of the assigned judge.

(12) **The Motion, Entry, Certification form that is available in our office is the only acceptable form to be used for the purposes of payment. We will NOT accept the State form with our additional pages attached to it.**

(14) **Independent contractors / Panel Attorneys**

An OPERS retiree cannot continue to receive benefits and work as a panel attorney or an independent contractor under a contract for any period of time for the employer from which they retired. This prohibition is applicable regardless of the number of hours or days you actually worked. A retiree who performs services as an independent contractor or panel attorney for the public employer from which they retired will forfeit the pension portion of their retirement benefit and the annuity portion of their retirement benefit will be suspended for the term of the contract. The annuity portion of the retirement benefit will be paid in a lump sum to the retiree following termination of the contract. You may continue to receive benefits under a contract for services as an independent contractor for another public employer. However, if this occurs within the first two months of retirement, you will forfeit the pension portion of your retirement benefit and the annuity portion of the benefit will be suspended for the term of the contract. Independent contractors are not eligible for membership in OPERS. The employer is liable for any pension overpayment resulting from lack of notice to OPERS of re-employment if the individual is determined to be a public employee. For further information, you may contact OPERS at (1-866-673-7748).