

VI. QUALIFICATIONS AND DUTIES OF COUNSEL

Goal: Counsel must meet these minimum standards before accepting a case. In order to provide effective representation, counsel must engage in regular and ongoing training.

A. In order to assure that clients receive the effective assistance of counsel to which they are constitutionally and statutorily entitled, counsel providing public legal representation should meet the following minimum professional qualifications:

- a. Satisfy the minimum requirements for practicing law in Montana as determined by the Montana Supreme Court;
- b. Complete ~~twenty hours of~~ continuing legal education within each calendar year as required by the Montana State Bar, which may include courses offered by ~~from courses, offered or approved by~~ the Office of the State Public Defender, relating to public defender practice or representing persons whose liberty is at risk as a result of State-initiated proceedings;
- c. Comply with all other training requirements established by the Training Coordinator of the Office of the State Public Defender and approved by the Public Defender Commission; including, but not limited to, mental health disabilities, cultural competency, and drug dependency.
- d. In order to provide quality legal representation, counsel must be familiar with the substantive criminal law and the law of criminal procedure and its application in the State of Montana. Counsel has a continuing obligation to stay abreast of changes and developments in the law;
- e. The foregoing requirements shall be deemed satisfied if counsel is representing clients pursuant to the Student Practice Rule and is being directly supervised by a supervising attorney who meets the standards required for felony defense set forth below.
- e.f. All counsel will be evaluated periodically to ensure proficiency in the areas in which they practice on behalf of the Office of the State Public Defender.

TRAINING STANDARDS—page 56 (an example for each representation standard with a numeric requirement for training hours)

XI. REPRESENTATION STANDARDS FOR POSTCONVICTION PROCEEDINGS

GOAL: To actively and effectively represent clients in postconviction proceedings by evaluating the case, conducting the appropriate investigation, and presenting all factual and legal issues that have a reasonable probability of resulting in the vacation of the client’s conviction or materially improving his or her legal position. Attorneys representing clients in postconviction proceedings shall comply with the general standards for public defenders as well as these specific Standards and with Section 46-21-101 et seq.

1. APPOINTMENT

A. When a court determines an attorney shall be appointed in a postconviction proceeding, the Appellate Defender Office shall assign the case to a contract attorney.

2. TRAINING

A. The attorney will demonstrate proficiency or receive ~~a minimum of twenty (20) hours~~ of training specific to the representation of clients in the postconviction process.

B. Counsel shall become familiar with the applicable statutes and case law including civil, pretrial discovery, and motions rules. Counsel shall be familiar with deadline issues, acceptable pleadings, as well as the procedural and substantive legal issues relating to the postconviction process.

C. Counsel shall reserve regular time to keep current with the statutes, rules, and cases regarding both procedural and substantive legal issues.

D. Counsel shall participate, whether as an instructor or student, in regular training events and shall endeavor to grow professionally to the benefit of his or her clients.

TRAINING STANDARDS—page 60-61 (an example that includes on the job training)

XIII. STANDARDS FOR REPRESENTATION OF YOUTH IN YOUTH COURT PROCEEDINGS

GOALS:

- A. To zealously defend youth charged with delinquency offenses and to protect their due process rights.**
- B. To serve the stated interest of the youth, be independent from the court and other participants in the litigation, including the youth’s parents or**

guardians, and be unprejudiced and uncompromised in representing the youth.

- C. To exercise independent and professional judgment in carrying out the duties assigned by the court and to participate fully in the case on behalf of the youth. Attorneys representing a client subject to youth court proceedings shall comply with the general standards for public defenders providing representation of an adult charged with violations of the criminal law, as well as the specific Standards contained herein.**
- D. To recognize that youth are at a critical stage of development and that skilled juvenile defense advocacy will positively impact the course of clients' lives through holistic and zealous representation.**

1. TRAINING:

A. To be eligible for assignment to represent youth in youth court, counsel shall demonstrate proficiency or receive ~~a minimum of twenty (20) hours of~~ training in representing youth in youth court, ~~and including complete a minimum of ten (10) hours of~~ supervised on-the-job training if appropriate in the duties, skills, and ethics of representing youth in youth court.

- B. Counsel shall be knowledgeable in the following areas:
 - a. Titles 41 (Montana Youth Court Act), 45 (Crimes) & 46 (Criminal Procedure), Montana Code Annotated;
 - b. Child and adolescent development;
 - c. The services and treatment options for youth both locally and statewide;
 - d. The role and makeup of youth placement committees and kids' management authorities (KMAs);
 - e. Local and state experts who are available to consult on youth court cases as well as perform evaluations of youth;
 - f. Pre-dispositional and dispositional services and programs available through the court and probation;
 - g. Brain development and the effect of neglect and trauma on brain development;
 - h. The juvenile justice and child welfare systems;
 - i. Substance abuse issues;
 - j. Mental health issues;
 - k. Special education laws, rights and remedies;
 - l. School related issues including school disciplinary procedures and zero tolerance policies.