

—The following text is entirely new—

Rule 153. Qualifications of Counsel for Indigent Defense Services.

(a) **Definitions.**

- (1) “Indigent defense services” – The legal representation provided to indigent juveniles, at public expense, through either a public defender’s office, contracted counsel, or conflict counsel.
- (2) “Public defender’s office” – Governmental, non-profit, or contracted agencies that provide legal defense to indigent juveniles within a specific jurisdiction.

(b) **Qualifications.** Before counsel provides indigent defense services, counsel shall meet the following licensure and educational qualifications:

- (1) **Licensure.** Counsel shall be a member in good standing of the Bar of this Commonwealth.
- (2) **Education.** Counsel shall have completed at least six of counsel’s annually required continuing legal education credits with coursework specific to juvenile law practice, including but not limited to:
 - (i) substantive criminal and juvenile law;
 - (ii) juvenile court procedure;
 - (iii) pre-adjudicatory proceedings;
 - (iv) hearing advocacy;
 - (v) presentation and rebuttal of relevant scientific, forensic, biological, and mental health evidence and experts;
 - (vi) rules of evidence;
 - (vii) dispositional hearings;
 - (viii) appellate procedure;
 - (ix) post-disposition relief;

- (x) collateral consequences of a delinquency adjudication;
 - (xi) child and adolescent development; and
 - (xii) ethical considerations particular to juvenile defense representation.
- (c) **Experience.** To the extent practicable, when providing indigent defense services, counsel's prior juvenile practice experience shall, at a minimum, be commensurate with the severity of the offenses, complexity of the case, and stage of proceeding.
- (d) **Responsibility.**
 - (1) **Public Defender Office.** The public defender office shall be responsible for ensuring that its employed counsel meet the qualifications of subdivision (b).
 - (2) **Contractor.** The entity contracting counsel to provide indigent defense services shall be responsible for ensuring that counsel meets the qualifications of subdivision (b).
 - (3) **Court.** If the court appoints counsel to provide indigent defense services, and counsel is neither employed by a public defender office nor under contract to provide such services, the court shall be responsible for ensuring that counsel meets the qualifications of subdivision (b) prior to making the appointment.
 - (4) **Affidavit.** Unless employed by a public defender office or under contract to provide indigent defense services, any counsel seeking an appointment by the court to represent an indigent juvenile shall:
 - (i) sign an affidavit attesting that he or she has met the qualifications set forth in subdivision (b) and describe his or her juvenile practice experience;
 - (ii) submit the affidavit to the president judge or administrative judge of the judicial district where counsel is seeking appointment; and
 - (iii) after submission of the initial affidavit, counsel shall submit a new affidavit every two years, and continue to do so for as

long as counsel represents or seek an appointment to represent an indigent juvenile, attesting that he or she continues to meet the qualifications set forth in subdivision (b).

Comment: This rule is not intended to substitute for or affect counsel's obligation under the Pennsylvania Rules of Professional Conduct to provide competent legal representation of the juvenile with the necessary legal knowledge, skill, thoroughness and preparation, including, but not limited to, keeping abreast of changes in juvenile law and its practice. See Pa.R.P.C. 1.1. Additionally, a violation of this rule is not intended to form an independent basis for relief pursuant to Pa.R.J.C.P. 622.

The definition of "indigent defense services" in subdivision (a) is derived from 72 P.S. § 202-F.

As used in subdivision (b)(2)(i), the term "juvenile law" includes, but is not limited to, the Juvenile Act, 42 Pa.C.S. §§ 6301 *et seq.*, and the Child Protective Services Law, 23 Pa.C.S. §§ 6301 *et seq.*

The affidavit required by subdivision (d)(4)(iii) may also include an updated description of juvenile practice experience.

Standards for Delivery of Effective Indigent Defense Services

Preamble

The delivery of effective indigent defense services throughout this Commonwealth is a requirement of the Constitution of the United States and the Constitution of Pennsylvania. The following principles are designed to assist counsel in providing legal representation to indigent juveniles through either a public defender's office, contracted counsel, or conflict counsel to ensure that counsel's ability, training, and experience matches case assignments.

These principles are not intended to supersede or alter existing disciplinary codes or standards of conduct, nor shall they be used as a basis for litigation, lawyer discipline or sanctions.

§ 1. Minimum Standards.

Attorneys should have sufficient knowledge of the law, training, and experience to provide effective assistance of counsel.

§ 2. Knowledge of Law.

- (a) Counsel should have reasonable knowledge of substantive Pennsylvania and federal law regarding constitutional law, juvenile law, juvenile procedure, factors impacting culpability, mitigation, rules of evidence, rules of professional responsibility, trial advocacy, and local practices.
- (b) Counsel who practice in specific areas such as appeals, juvenile defense, or mental health representation should have reasonable knowledge of the substantive law and rules relevant to these areas of practice.
- (c) Counsel should have reasonable knowledge of ethical rules of practice.
- (d) Counsel should keep updated on developments in the relevant rules and law.

§ 3. Technological Skills.

- (a) Counsel should be reasonably able to use office technology commonly used in the legal community, and technology used within the applicable court system.
- (b) Counsel should be reasonably able to review materials that are provided in an electronic format and have a duty to keep updated with technological developments relevant to juvenile defense.

§ 4. Forensic knowledge.

- (a) Attorneys should have reasonable knowledge of forensic and scientific issues that can arise in juvenile cases and be reasonably able to effectively litigate those issues.
- (b) If counsel does not have sufficient forensic knowledge at the outset of a case, counsel should adequately prepare to achieve competence by seeking training, information, mentorship, and supervision, as available.

§ 5. Appropriateness of Case Assignments.

Counsel should not accept a case that will exceed:

- (a) Counsel's general level of experience.
- (b) Counsel's training and legal knowledge relevant to the case.
- (c) Counsel's ability to sufficiently prepare for a particular case to the degree required for competent representation.
- (d) Counsel's expertise in a particular field of law or specific subject matter is necessary for competent representation.

§ 6. Counsel's Duties to Clients.

- (a) Counsel should adopt a client-centered approach to representation based around a client's needs and working with them to achieve their goals.
- (b) Counsel should take all reasonable steps to address collateral issues that are relevant to their client's case. Counsel should offer direct assistance with such issues or provide referrals for the client to civil legal services organizations, social services providers, other attorneys, or non-attorney professionals.