

Chapter _____ of NAC is hereby amended by adding thereto the provisions set forth as sections _____ to _____, inclusive of this regulation.

Department of Indigent Defense Services

General Provisions

NAC _____ Definitions. (NRS 180.320) As used in this chapter, unless the context otherwise requires, the words and terms defined in **NAC _____ to NAC _____**, inclusive, have the meanings ascribed to them in those sections.

NAC _____. **“CLE” defined. (NRS 180.320)** “CLE” means continuing legal education as discussed in SCR 205-215.

NAC _____. **“Delivery system” defined. (NRS 180.320)** “Delivery system” means and includes all persons involved in providing indigent defense services and representation. It may include county defender offices, appointed counsel programs, contract-for-service programs and the lawyers and support staff therein.

NAC _____. **“Expert witness” defined. (NRS 180.320)** “Expert witness” is a person qualified by knowledge, skill, experience, training, or education to render an opinion on scientific, technical, or other specialized matters.

NAC _____. **“Indigency” defined.** “Indigency” means a person who is unable, without substantial hardship to themselves or their dependents, to obtain competent, qualified legal counsel on his or her own.

NAC _____. **“Indigent Defense Services” defined. (NRS 180.004, 180.320)** “Indigent defense services” has the meaning ascribed to it in NRS 180.004.

NAC _____. **“Investigator” defined. (NRS 180.320, 648.018, 648.060)** “Investigator” is a person licensed by the Nevada Private Investigator’s Licensing Board, an employee of a person licensed by the Nevada Private Investigator’s Licensing Board, or an employee of an attorney or office of a public defender, and who is qualified to secure evidence and/or subpoena witnesses to be used in the preparation and trial of criminal cases.

NAC _____. **“Mitigation specialist” defined. (NRS 180.320)** “Mitigation specialist” is a person qualified by knowledge, skill, experience, or other training as a mental health or sociology professional to investigate, evaluate and present psychosocial and other mitigation evidence in cases where the state is seeking the death penalty.

NAC _____. **“Plan for indigent defense services” or “Plan” defined.** “Plan for indigent defense services” or “Plan” means a county’s processes for (1) the hiring, appointment, and selection of trial and appellate counsel; (2) approval of expert witness fees, investigative fees, and attorney fees; and (3) screening for indigency of a person

alleged to have committed a public offense or a child alleged to have committed a delinquent act or alleged to be in need of supervision.

NAC _____. **“Substantial hardship” defined.** “Substantial hardship” is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance, reside in public housing, or earn less than 200 percent of the Federal Poverty Guideline. A defendant is presumed to have a “substantial hardship” if he or she is currently serving a sentence in a correctional institution or housed in a mental health facility.

NAC _____. **Scope of rules.** The provisions of this chapter govern the provision of indigent defense services.

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Petitions for Regulation, Advisory Opinions and Declaratory Orders

NAC _____. Petition for action on regulation: Filing; contents.

1. An interested person who wishes to petition the Board for the adoption, filing, amendment or repeal of a regulation of the Board must file with the Department the original and one copy of the petition.
2. The petition must include:
 - a. the name and address of the petitioner;
 - b. a clear and concise statement of the regulation to be adopted, filed, amended or repealed;
 - c. the reason for the adoption, filing, amendment or repeal of the regulation;
 - d. the statutory authority for the adoption, filing, amendment or repeal of the regulation; and
 - e. the name of the Board authorized to adopt, file, amend or repeal the regulation.

NAC _____. Petition for action on regulation: Review; notice of decision.

1. The Board may refuse to review a petition which requests the adoption, filing, amendment or repeal of a regulation if:
 - a. the original petition is not accompanied by one copy of the petition; or
 - b. the petition does not contain the information required by NAC _____.
2. The Board may require the Department to review the petition and issue a decision.
3. The Department, pursuant to subsection 2 will notify the petitioner in writing of the decision within 30 days after the petition is filed.

NAC _____. Petition for declaratory order or advisory opinion: Authorization; filing; contents.

1. Except as otherwise provided in subsection 4, an interested person may petition the Director to issue a declaratory order or advisory opinion concerning the applicability of a statute, regulation or decision of the Department.
2. The original and one copy of the petition must be filed with:
 - a. the Deputy Director who is authorized to administer or enforce the statute or regulation or to issue the decision; or
 - b. the Director, if the statute, regulation or decision is administered or enforced by the Director.
3. The petition must include:
 - a. the name and address of the petitioner;
 - b. the reason for requesting the order or opinion;
 - c. a statement of facts that support the petition; and
 - d. a clear and concise statement of the question to be decided by the Director or Deputy Director and the relief sought by the petitioner.

4. An interested person may not file a petition for a declaratory order or an advisory opinion concerning a question or matter that is an issue in an administrative, civil or criminal proceeding in which the interested person is a party.

NAC _____. Petition for declaratory order or advisory opinion: Action by Department; record and notice of order or opinion.

1. The Director may refuse to review a petition which requests him or her to issue a declaratory order or advisory opinion if:
 - a. The original petition is not accompanied by one copy of the petition; or
 - b. The petition does not contain the information required by NRS ____.
2. The Director may, or designate a Deputy Director to:
 - a. Conduct an informal hearing to determine issues of fact or to hear argument related to the petition and may enter reasonable orders that govern the conduct of such a hearing.
 - b. Request the petitioner to provide additional information or arguments relating to the petition.
 - c. Issue a declaratory order or an advisory opinion based upon the contents of the petition and any material submitted with the petition.
 - d. Consider relevant decisions that have been issued by the Department which apply or interpret the statute, regulation or decision in question.
 - e. Enter any reasonable order to assist his or her review of the petition.
3. The Director or Deputy Director will maintain a record of the order or opinion that is indexed by subject matter and mail a copy of the order or opinion to the petitioner within 60 days after:
 - a. the petition is filed;
 - b. the petition is referred to the Director for decision;
 - c. an informal hearing is conducted; or
 - d. any additional information or written argument is received by the Director or the Deputy Director, whichever occurs later.

NAC _____. Petition for declaratory order or advisory opinion: Request for Director to review decision of Deputy Director.

1. After receipt of a decision from a Deputy Director concerning the applicability or interpretation of a statute, regulation or decision of the division, a petitioner may request the Director to review the decision.
2. A request made pursuant to subsection 1 must:
 - a. be in writing;
 - b. contain the information required pursuant to NAC ____; and
 - c. be filed with the Director within 30 days after the date of the decision.
3. The Director will review the request in accordance with the provisions of subsections 2 and 3 of NAC _____.

NAC _____ Advisory opinion: Oral response prohibited. The Director or a Deputy Director will not render an oral advisory opinion or respond over the telephone to a request for an advisory opinion. An oral response or a response given over the telephone by a member of the staff of the Department is not a decision or an advisory opinion of the Department.

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Indigent Defense Services Funding

NAC _____ Maximum amount of county contribution for indigent defense services (NRS 180.320)

1. The maximum amount that a county will be required to pay for the provision of indigent defense services shall not exceed that county's actual costs of indigent defense services for the average of fiscal year 2018 and fiscal year 2019 minus any expenses related to capital and murder cases and, for counties whose population is less than 100,000, case-related expenses, for those years plus the percentage equal to the lesser of:
 - a. The cost of inflation, measured by the West Region Consumer Price Index, and/or
 - b. The union negotiated cost of living increase for employees for that county.
2. Case-related expenses for counties whose population is less than 100,000 shall be a charge against the State, budgeted to the Department and administered, pursuant to a county's plan for the provision of indigent defense, by the Department or the Department's designee.
3. If a county elects to transfer the responsibility for trial level death penalty cases and direct appeals to the Nevada Appellate Courts to the Office of the State Public Defender pursuant to NAC _____, the costs of providing indigent defense services in those cases shall be a charge against the State and excluded from the county's contribution.
4. The provisions of this section are effective July 1, 2021.

NAC _____ State contribution for indigent defense services. (NRS 180.320, 180.450)

1. State contributions for indigent defense services in excess of the maximum county contribution may be sought through either:
 - a. The county's annual submission of a plan for the provision of indigent defense services pursuant to NRS 260.070(2); or
 - b. A request to the Interim Finance Committee for allocation from the Contingency Account pursuant to NRS 180.450.
2. Each county's plan for the provision of indigent defense services will be submitted in the form approved by the Board.
3. Pursuant to NRS 180.320(1)(f), plans requesting state contributions are subject to the approval of the Board.

4. Counties may seek state contribution in excess of the maximum county contribution for the following expenses:
 - a. to ensure the indigent defense services provided by a county in comply with the standards and regulations of the Board as provided in NAC _____ to NAC _____;
 - b. the establishment and maintenance of indigent defense data collection systems; and
 - c. the establishment of independent budgets for trial-related expenses, such as investigators and expert witnesses, or payment of trial-related expenses exceeding existing budgets under the maximum county contribution as provided in NAC _____.

NAC _____ Accounting. (NRS 180.320, 180.450)

1. State contributions for indigent defense services are provided for one fiscal year, or July 1st through June 30th of a given year.
2. State contributions for indigent defense services are for the express purpose of compliance with applicable indigent defense standards, regulations, and/or improvement of a county's indigent defense delivery system.
3. Any unencumbered or unexpended balance remaining at the end of the fiscal year shall lapse and shall revert to the available balance of the fund from which appropriated.

NAC _____ Death Penalty Cases and Direct Appeals in Rural Counties (NRS 180.320)

1. The Office of the State Public Defender may handle all trial level death penalty cases and all direct appeals to the Nevada Appellate Courts for counties whose population is less than 100,000.
2. A county must notify the Office of the State Public Defender in writing on or before March 1 of the next odd-numbered year and the responsibilities must be transferred at a specified time on or after July 1 of the same year in which notice was given as determined by the Executive Director of the Department.
3. Once a county whose population is less than 100,000 has opted in for these services, the county will not be able to opt out unless they receive permission to opt out from the Board of Indigent Defense Services.

County Plans for the Delivery of Indigent Defense Services

NAC _____ **Submission of Plan for Indigent Defense Services**

1. Upon passage of these regulations, a county's initial plan for the provision of indigent defense services shall be provided to the Department within 180 days of the effective date of these regulations, or on June 15, whichever is earlier. After the initial plan for the delivery of indigent defense services is provided, counties shall provide the plan to the Department in accordance with NRS 260.070.
2. A county's plan for delivery of indigent defense services should follow the model plan approved by the Board and include, in accordance with these regulations, the processes of (1) hiring, appointment, and selection of trial and appellate counsel; (2) approval of expert witness fees, investigative fees, and attorney fees; and (3) screening a defendant's indigency.

NAC _____ **Independence of Defense Function**

1. The plan for provision of indigent defense services shall be designed to guarantee the integrity of the relationship between lawyer and client. The plan and lawyers serving under it should be free from political and undue budgetary influence. Both should be subject to judicial supervision only in the same manner and to the same extent as retained counsel or the prosecution.
2. Screening for indigency and selection of counsel. A county's plan for the provision of indigent defense services must exclude the judiciary from the screening of a defendant for indigency in accordance with these regulations. After screening and upon the judge, justice, or master finding that a defendant is eligible for counsel in accordance with NRS 171.188(3), counsel shall be selected in accordance with the county's plan for indigent defense services. Where the public defender is disqualified, plans should follow the procedure in NRS 7.115.
3. Payment of attorney fees, investigation fees, expert fees, and other case-related expenses. A county's plan for indigent defense services must exclude the judiciary from payment of attorney fees, investigation fees, expert fees, and other case-related expenses for both county-employee public defenders and independent contractor public defenders. Counties using salaried public defenders shall create a budget for such expenses within the office of the public defender subject to administration of the Public Defender. Plans using independent-contractor public defenders shall create a budget independent of the judiciary to be administered by the Department, or the Department's designee; and include a mechanism for judicial review of denied or modified requests. Where the public defender is disqualified, counties should follow the procedure for payment of attorney fees, investigation fees, expert fees, and other case-related expenses in accordance with NRS 7.115 – 7.175.
4. Role of the judiciary. Judges are encouraged to contribute information and advice to the Board, Department, and/or the Department's designee concerning

the delivery of indigent defense services, including their opinions regarding the competence and performance of attorneys providing such services.

NAC _____ Indigency screening; counsel at first appearances and critical stages.

1. **Prompt eligibility screening.** Plans for the provision of indigent defense services should make reasonable efforts to ensure that all defendants are screened for indigency within 48 hours of arrest. To ensure prompt indigency screening, delivery systems shall make reasonable efforts to ensure notices for indigent defense services and applications for eligibility are promptly provided to those seeking such services through cooperation of arresting agencies, county jails and local courts. Nothing in this section shall preclude waiver of the right to counsel provided the record indicates that the decision to waive was made knowingly and voluntarily and with an understanding of the consequences in accordance with NRS 171.188(1).
2. **Counsel at first appearances.** Plans and/or contracts for the provision of indigent defense services shall ensure that counsel is present at initial appearances/arraignments. Counsel should be prepared to address appropriate bail and release conditions where release on a person's own recognizance is denied. A timely initial appearance/arraignment should not be delayed pending a determination of indigency.
3. **Counsel at critical stages.** All persons determined to be eligible for indigent defense services shall also have appointed counsel at pre-trial proceedings, during plea negotiations, and at other critical stages, whether in court or out of court.

NAC _____ Initial interview after assignment.

1. **Timing and Purpose of the Interview:** Plans and/or contracts for indigent defense services shall ensure that counsel conducts a client interview as soon as practicable after assignment to obtain information necessary to provide quality representation. Counsel shall conduct the initial interview with the client sufficiently before any subsequent court proceeding so as to be prepared for that proceeding. When a client is in local custody, counsel shall conduct an initial client intake interview within seven (7) days after assignment. When a client is not in custody, counsel shall promptly deliver an introductory communication so that the client may follow up and schedule a meeting. The purpose of the initial interview includes, but is not limited, to:
 1. Establish the best possible relationship with the indigent client;
 2. Review charges;
 3. Determine whether a motion for pretrial release is appropriate;
 4. Determine the need to start any immediate investigations;
 5. Determine any immediate mental or physical health needs or need for foreign language interpreter assistance; and

6. Advise that clients should not discuss the circumstances of arrest or allegations with cellmates, law enforcement, family or anybody else without counsel present.

Counsel shall conduct subsequent client interviews as needed.

2. Setting of the Initial Interview: All client interviews shall be conducted in a private and confidential setting to the extent reasonably possible. The delivery system should, through cooperation with local agencies, ensure the necessary accommodations for private discussions between counsel and clients in courthouses, jails, prisons, detention centers, and other places where clients must confer with counsel.
3. Preparation for the Initial Interview: Counsel shall use reasonable efforts to obtain copies of any relevant documents which are available, including copies of any charging documents, recommendations and reports concerning pretrial release, and discoverable material in preparation for the interview. However, an initial interview should not be delayed based upon the absence of relevant documents.
4. Client status:
 1. Counsel shall evaluate whether the client is capable of participation in his/her representation, understands the charges, and has some basic comprehension of criminal procedure. Counsel has a continuing responsibility to evaluate and, where appropriate, raise as an issue for the court the client's capacity to stand trial or to enter a plea pursuant to NRS 178.405. Counsel shall take appropriate action where there are any questions about a client's competency.
 2. Where counsel is unable to communicate with the client because of language or communication differences, counsel shall take whatever steps are necessary to fully explain the proceedings in a language or form of communication the client can understand. Steps include seeking the provision of an interpreter to assist with pretrial preparation, interviews, investigation, and in-court proceedings or other accommodations pursuant to NRS 1.510.

NAC _____ Investigation and experts.

1. Reasonable investigation. Plans for the provision of indigent defense services shall ensure that counsel has the resources to conduct an independent investigation of the charges and offense as promptly as practicable. When appropriate, counsel shall request funds to retain an investigator to assist with the client's defense. Reasonable requests shall be funded by the delivery system. Decisions to limit investigation must take into consideration the client's wishes and the client's version of the facts.

- a. Counsel should ensure that an investigator's criminal investigation training and experience match the nature and complexity of the case for which the investigator is sought.
2. Experts. Plans for the provision of indigent defense services shall ensure that counsel has the resources to request the assistance of experts where it is reasonably necessary to prepare the defense and/or rebut the prosecution's case. Reasonable requests shall be funded by the delivery system.
3. Continuing duty. Counsel has a continuing duty to evaluate a case for appropriate defense investigations or expert assistance.

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Training, education and qualification of attorneys providing indigent defense services.

NAC _____ Definitions. (NRS 180.320) As used in this section, unless the context otherwise requires, the words and terms defined in NAC _____ to NAC _____, inclusive, have the meanings ascribed to them in those sections.

NAC _____. “Basic requirements” defined. (NRS 180.320) “Basic requirements” means being admitted to practice law with the State of Nevada and satisfaction of annual CLE requirements set forth in NAC _____.

NAC _____. Minimum standard; general requirements; waivers. (NRS 180.320, 180.430)

1. Minimum Standard. Prior to handling a criminal matter, an indigent defense provider’s ability, training, and experience shall match the complexity of the case.
2. Attorneys who provide indigent defense services in counties whose population is less than 100,000 shall:
 - a. demonstrate compliance with the minimum standards and regulations of the Board pursuant to NAC _____ to NAC _____.
 - b. provide proof of compliance with annual CLE requirements pursuant to NAC _____ by January 1st of each year;
 - c. practice the indigent defense service for which he or she is qualified through the Department; and
 - d. track their time and workload, and provide monthly reports as required by NAC _____.
3. The provisions of this section may be temporarily waived by the Department for good cause.
4. Failure to comply may result in a corrective action plan pursuant to NRS 180.540 and/or removal from the list of lawyers eligible to provide indigent defense services.

NAC _____. Initial application with the Department; roster of eligible providers. (NRS 180.320, 180.430)

1. Pursuant to NRS 180.430(1)(b), attorneys seeking to provide indigent defense services in counties whose population is less than 100,000 must demonstrate compliance with the Board’s standards and regulations pertaining to training, education and qualifications on the approved form.
2. The form shall be submitted to the Department for review by mail or electronic submission as provided on the Department’s website. Upon receipt of the form, the Department will review and determine the area of indigent defense services for which the attorney is qualified within 30 days. The Department will provide written notice to the attorney of the Department’s determination.

3. Once an application has been submitted, an attorney may continue practicing in the area of indigent defense for which the Department's determination is sought until receiving written notice of the determination.
4. Upon the Department's determination, the attorney and their areas of qualification will be placed on a roster of attorneys eligible to provide indigent defense services. The roster will be used by boards of county commissioners in selecting a county's indigent defense providers. The roster will be updated yearly or whenever there is a change requiring update.

NAC _____. Challenge of Department Determination. If a lawyer disagrees with the Department's determination of the areas on indigent defense services for which an attorney is qualified, the Request for Reconsideration must be provided to the Department of Indigent Defense within 30 days of receiving the Department's determination. The Request for Reconsideration will be reviewed by the Board of Indigent Defense Services.

NAC _____. Qualifications for misdemeanor proceedings. (NRS 180.320)

1. Prior to undertaking representation in a misdemeanor matter, lawyers shall satisfy basic requirements and have sufficient training or experience to provide competent representation.
2. Attorneys beginning to represent clients in misdemeanor matters, should consider seeking the participation of a supervising or more experienced attorney prior to undertaking representation in an enhanceable misdemeanor or misdemeanor jury trial, pursuant to NRS 260.060 if applicable.

NAC _____. Qualifications for category B offenses for which the maximum penalty is less than 10 years, C, D, E felony or Gross Misdemeanor proceedings. (NRS 180.320)

1. Attorneys seeking to represent individuals charged with category B offenses for which the maximum penalty is less than 10 years, C, D, E felony or Gross Misdemeanor proceedings, must:
 - a. satisfy basic requirements; and
 - b. have been trial counsel, alone or with other counsel, in two bench or jury trials tried to completion; or
 - c. demonstrate equivalent experience and skills as determined by the Department.

NAC _____. Qualifications for non-capital category A offenses or category B offenses for which the maximum penalty is 10 years or more. (NRS 180.320)

1. Attorneys seeking to represent individuals charged with non-capital category A offenses or category B offenses for which the maximum penalty is 10 years or more, must:
 - a. satisfy the basic requirements;

- b. have practiced criminal law for three full years; either as a prosecutor, provider of indigent defense services, or retained counsel; and
- c. have been trial counsel, alone or with other trial counsel, and handled a significant portion of the trial in three criminal jury trials tried to completion; or
- d. demonstrate equivalent experience, have a significant record of quality criminal trial court representation, and the ability to handle complex felony matters as determined by the Department.

NAC _____. Qualifications for death penalty cases. (NRS 180.320) Attorneys seeking to represent individuals charged with category A offenses in which the state seeks death must meet the criteria established pursuant to SCR 250.

NAC _____. Qualifications for direct or post-conviction appeals of felonies other than capital proceedings. (NRS 180.320) Attorneys seeking to represent individuals in direct or post-conviction appeals of felonies other than capital proceedings shall satisfy basic requirements and have sufficient experience or training to undertake the representation.

NAC _____. Qualifications for appellate counsel in capital proceedings. (NRS 180.320)

Attorneys seeking to represent individuals convicted of category A offenses in which the state sought death must meet the established criteria pursuant to SCR 250.

NAC _____. Qualifications for juvenile delinquency proceedings. (NRS 180.320)

1. Attorneys seeking to represent individuals in juvenile delinquency proceedings shall:
 - a. satisfy basic requirements and
 - b. have the knowledge and skill necessary to represent a child diligently and effectively.
2. Attorneys seeking to represent individuals in juvenile delinquency proceedings should be familiar with
 - a. the Department of Juvenile Justice Services and other state and local programs;
 - b. competency and developmental issues;
 - c. attorney/client interaction issues;
 - d. school-related conduct and zero tolerance policy issues specific to juvenile representation.
3. Attorneys beginning to represent clients in delinquency proceedings should consider working with an experienced juvenile delinquency practitioner as a mentor, pursuant to NRS 260.060 where applicable.
4. Attorneys representing children in certification proceedings in accordance with NRS Chapter 62B shall have litigated at least two criminal jury trials or be assisted

by co-counsel with the requisite experience, pursuant to NRS 260.060 where applicable.

NAC _____. Continuing Legal Education and Training. (NRS 180.320, 180.430)

1. Minimum Standard.
 - a. Knowledge of the law. Counsel shall have reasonable knowledge of substantive Nevada and federal law, constitutional law, criminal law, criminal procedure, rules of evidence, rules of appellate procedure, ethical rules, local rules, and local practices. Counsel has a continuing obligation to have reasonable knowledge of changes and developments in the law. “Reasonable knowledge” as used in this standard means knowledge of which a lawyer competent under NRPC 1.1 would be aware.
 - b. Knowledge of scientific evidence and applicable defenses. Counsel shall have reasonable knowledge of the forensic and scientific issues that can arise in a criminal case, the legal issues concerning defenses to a crime, and be reasonably able to effectively litigate those issues.
 - c. Knowledge of technology. Counsel shall be reasonably able to use office technology commonly used in the legal community and technology used within the applicable court system. Counsel shall be reasonably able to thoroughly review materials that are provided in an electronic format.
 - d. Department will provide training opportunities. Consistent with its statutory obligation, the Department will develop and provide CLE programs for attorneys who provide indigent defense services. This may include, but is not limited to, regular CLE courses and/or annual training programs that include topics tailored to the needs of indigent defense services.
2. Attorneys providing indigent defense services shall annually complete a minimum of five (5) hours of CLE courses relevant to the areas of indigent defense services in which they practice.
 - a. Proof of compliance with annual CLE requirements shall be submitted to the Department by the first day of January, as required by NAC ____, by submitting a copy of the Nevada Board of Continuing Legal Education’s annual transcript by mail or electronic submission as provided on the Department’s website.
3. Attorneys providing indigent defense services shall be guided by the Board’s minimum standard in determining CLE courses relevant to the areas of indigent defense services.
4. The Department will develop and provide CLE programs for attorneys who provide indigent defense services. These may include, but is not limited to, regular CLE

courses and/or annual training programs that include topics relevant to indigent defense services.

NAC _____ . Review. (NRS 180.320, 180.430)

1. The quality of the representation provided by indigent defense providers must be monitored and regularly assessed. In conducting the review, the Department may obtain information from a variety of sources including client feedback, client surveys, other providers of indigent defense services, office staff, judicial personnel, observation of a deputy director of the Department, and statistical data provided to the Department pertaining to attorney workload. Delivery systems will ensure that any client-surveys authorized by the Board are provided to clients at the conclusion of the representation.

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Continuity of Representation

NAC _____. Continuity of Representation. (NRS 180.320)

1. Each county that employs or contracts for the provision of indigent defense services shall ensure, to the greatest extent possible, consistency in the representation of indigent defendants so that the same attorney represents a defendant through every stage of the case without delegating the representation to others, except that administrative or other tasks which do not affect the rights of the defendant may be delegated.
2. Nothing in this section shall preclude a county from utilizing a single attorney or rotation of attorneys to provide representation at initial appearance/arraignments; however, care should be taken to discuss only matters pertaining to an initial appearance/arraignment to avoid creating a conflict of interest.

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Workloads of Indigent Defense Providers

NAC _____ Workloads. (NRS 180.320, 180.430, 180.440, NRS 260.010)

1. Minimum standard. The workload of indigent defense attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys, nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation.
2. Workloads will be determined through Nevada specific weighted caseload studies to be performed at least every five years.

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Attorney Compensation and Expenses

NAC _____ Attorney Compensation. (NRS 180.320, 180.440)

1. Rates of Payment for Salaried Public Defenders. Reasonable salaries, benefits, and resources should be provided to salaried indigent defense counsel. The rates paid by the county district attorneys, the Nevada Attorney General, and/or other state offices shall serve as guidance for reasonable compensation.

2. Contracting for Indigent Defense Services.
 - a. The terms of any indigent defense contract-for-service shall avoid any actual or apparent financial disincentives to the attorney's obligation to provide clients with competent legal services and be awarded on a competitive basis.

 - b. Contracts-for-service should provide compensation at a reasonable hourly rate that is comparable on an hourly basis to that of local prosecutors with similar experience and take into account overhead, expenses, and costs relating to significant attorney travel. Contracts-for-service must also include a separate funding mechanism for excess, extraordinary, or complex cases and reasonably necessary trial-related expenses.

 - c. Contracts-for-service must include a provision that requires the contracting attorney's compliance with the Board's minimum standards and regulations.

 - d. Any contracts-for-service must utilize the model contract approved by the Board.

 - e. Each board of county commissioners shall cooperate with the Board and Department in the posting of an opening for, deliberation of, and selection of contract-for-service-attorneys.

3. Compensation and Expenses for Assigned Counsel.
 - a. Assigned counsel should receive prompt compensation pursuant to the statutory hourly rate in NRS 7.125(1). Activities outside of court appearances including, but not limited to, directing investigation, negotiating, or tactical planning are equally important to quality representation and shall be included in assigned counsel's compensation.

 - b. Assigned counsel should be promptly reimbursed for their reasonable out-of-pocket, case-related expenses such as the use of investigators and expert witness fees.

 - c. Where the public defender is disqualified and private counsel must be appointed pursuant to NRS 7.115, plans for the delivery of indigent defense services shall provide for the payment of reasonably necessary extraordinary fees, investigative fees, expert fees, and other case-related

expenses necessary for an adequate defense in accordance with NRS 7.125 through 7.145.

4. Conflict Counsel. When any conflict of interest is identified by a public defender office or by assigned counsel, that case should be returned for reassignment to the designating authority. Payments to conflict counsel, including fees or other expenses incurred during the representation, shall not be deducted from the line item or contract negotiated with the primary providers (public defender office, assigned counsel, or contract-for-service).
5. Reimbursements. Attorneys must be reimbursed for any reasonable out-of-pocket expenses they incur as a result of representation. Mileage pertaining to the provision of indigent defense services, outside of an attorney's normal commute, should be reimbursed based on prevailing local norms and should not be less than the United States General Services Administration published rates.
6. Payments.
 - a. Invoices submitted by assigned counsel and contract defenders should be reviewed forthwith in accordance with the county's plan for indigent defense services.
 - b. Invoices should be approved in a timely manner unless there is cause to believe the amount claimed is unwarranted.
 - c. In lengthy cases, periodic billing and payment during the course of representation should be allowed.
 - d. Expenditure of public dollars should be subject to control mechanisms and audits that verify expenditure accuracy. This should be accomplished by following generally accepted procedures that separate staff duties; establish billing policies; and ensure thorough review of invoices, including benchmark setting and investigation where necessary. The approval process should be supported by an efficient dispute resolution procedure.

Uniform Reporting of Data

NAC _____ Definitions. (NRS 180.320) As used in this section, unless the context otherwise requires, the words and terms defined in **NAC _____** to **NAC _____**, inclusive, have the meanings ascribed to them in those sections.

NAC _____. **“Adjudicated/Disposed/Closed” defined. (NRS 180.320)**

1. “Adjudicated/Disposed/Closed” means a count of cases by defendant for which an original entry of final adjudication has been entered or for which an appointment has ended.
2. Cases adjudicated/disposed/closed should be counted in the same category of offense as it was counted in.

NAC _____. **“Appointment” defined. (NRS 180.320)** “Appointment” means any time a lawyer is asked or assigned to act on behalf of a person in a criminal or juvenile matter by a judicial officer. An “appointment” ends when a lawyer is no longer involved in a case for whatever reason. There can be multiple “appointments” for a single case during the duration of a case.

NAC _____. **“Beginning pending” defined. (NRS 180.320)** “Beginning pending” means a count of cases by defendant that, at the start of the reporting period, are awaiting disposition.

NAC _____. **“Case” defined. (NRS 180.320)**

1. A “case” means a single defendant on a single charging document, regardless of the number of counts alleged, for felony, gross misdemeanor, and misdemeanor matters.
2. A “case” means a single juvenile defendant on a single petition, regardless of the number of counts alleged, in juvenile delinquency matters.
3. For cases in which multiple charges are involved, the case will be classified by the highest offense charged.
4. Felony, gross misdemeanor, and misdemeanor cases are counted at time of appointment.

NAC _____. **“End pending” defined. (NRS 180.320)** “End pending” means a count of cases by defendant that, at the end of the reporting period, are awaiting disposition.

NAC _____. **“Felony” defined. (NRS 180.320)** “Felony” has the meaning ascribed to it by NRS 193.130.

NAC _____. **“Final adjudication” defined. (NRS 180.320)** “Final adjudication” means an entry of judgment or adjudication, an order of dismissal, or when an appointment ends regardless of adjudicatory status.

NAC _____. **“Gross misdemeanor” defined. (NRS 180.320)** “Gross misdemeanor” has the meaning ascribed to it by NRS 193.140.

NAC _____. **“Inactive status” defined. (NRS 180.320)** “Inactive status” means a count of cases in which a warrant for failure to appear has been issued, a diversion program has been ordered, or other similar incident that made a case inactive.

NAC _____. **“Juvenile case” defined. (NRS 180.320)** “Juvenile case” means cases involving an act committed by a juvenile, which, if committed by an adult, would result in criminal prosecution and over which a juvenile court has statutory original or concurrent jurisdiction.

NAC _____. **“Misdemeanor” defined. (NRS 180.320)** “Misdemeanor” has the meaning ascribed to it by NRS 193.150.

NAC _____. **“New appointment” defined. (NRS 180.320)** “New appointment” means a count of cases by defendant that have been assigned counsel for the first time.

NAC _____. **“Other practice” defined. (NRS 180.320)** “Other practice” means representational services other than indigent defense services and may include representation that is mandatory under NRS chapters 180 and 260 such as appointments in Chapter 128, 432B, and 433A cases.

NAC _____. **“Returned from warrant” defined. (NRS 180.320)** “Returned from warrant” means a count of cases in which a defendant has been arrested on a failure to appear warrant and has appeared before the court, returned from a diversion program, or other similar occurrence that re-activates a case.

NAC _____. **“Set for review” defined. (NRS 180.320)** “Set for review” means a count of cases that, following an initial entry of judgment during the reporting period, are awaiting regularly scheduled reviews involving a hearing before a judicial officer.

NAC _____. **Workloads of attorneys providing indigent defense services. (NRS 180.320)**

1. The workloads of attorneys providing indigent defense services shall allow each attorney to give each client the time and effort necessary to ensure effective representation.
2. Workload requirements will be determined through Nevada-specific weighed caseload studies conducted by the Department and implemented by regulation upon completion.

3. Prior to completion of a workload study and promulgation of the pertinent regulation, providers of indigent defense services shall reasonably comply with workload guidelines as determined by the Board.
4. Workloads will be continuously reviewed by performing Nevada-specific workload studies at least once every five years to determine that workload guidelines are appropriate.

NAC _____ . Reporting of workload data. (NRS 180.320)

1. On a monthly basis, attorneys providing indigent defense services in counties whose population is less than 100,000 shall provide to the Department a report detailing his or her current appointments.
2. Each report shall include totals for:
 - a. Beginning pending cases;
 - b. New appointments;
 - c. Cases returned from warrant;
 - d. Cases adjudicated, disposed, or closed including the manner in which the case was adjudicated, disposed, or closed (i.e. plea, dismissal, resolution at trial, etc.) and case outcome;
 - e. Inactive cases;
 - f. Cases set for review; and
 - g. End pending cases.
3. Cases will be arranged by the following offense categories:
 - a. Death penalty;
 - b. Non-capital category A offenses and category B offenses for which the maximum penalty is 10 years or more;
 - c. Category B offenses for which the maximum penalty is less than 10 years, C, D, and E;
 - d. Gross misdemeanor;
 - e. Misdemeanors, including misdemeanor appeals;
 - f. Misdemeanor DUI;
 - g. Misdemeanor cases involving allegations of domestic violence;
 - h. Direct appeals of capital offenses;
 - i. Direct appeals of other felonies convictions;
 - j. Probation and/or parole violations;
 - k. Juvenile offenses;
 - l. Juvenile certification proceedings;
 - m. Juvenile probation and/or parole violations; and
 - n. Specialty Court.
4. The report shall be provided to the Department in the method approved by the Board and shall be due within seven (7) calendar days from the end of the reporting month. Failure to provide reports may result in a corrective action plan as provided in NRS 180.450.

NAC _____ . Time keeping. (NRS 180.320)

1. On a monthly basis, lawyers providing indigent defense services in counties whose population is less than 100,000 shall provide to the Department a report detailing time spent delivering those services.
2. The report shall include time spent in the following categories:
 - a. In-court activities;
 1. General hearings (initial appearances, pre-trial conferences, status conferences, arraignments, revocation hearings, sentencings, etc.);
 2. Bail hearings;
 3. Suppression hearings;
 4. Other evidentiary hearings; and
 5. Trial.
 - b. Out-of-court activities, including:
 1. Client contact,
 2. Consultation with investigator,
 3. Consultation with expert witnesses,
 4. Preparation of motions to suppress,
 5. Travel,
 6. Waiting, and
 7. All other out-of-court tasks (including discovery review, case preparation, research and preparation of all other pleadings, negotiations, etc.); and
 - c. Expert, investigator, staff, and private workload:
 1. Expert witness hours per case,
 2. Investigator hours per case,
 3. Staff hours per case, and
 4. If applicable, total hours spent in private or other practice.
3. The report shall be provided to the Department in the method approved by the Board and shall be due within seven (7) calendar days from the end of the reporting month. Failure to provide reports may result in a corrective action plan as provided in NRS 180.450.

Confidentiality of Records

NAC _____ Certain records relating to recommendations and complaints to the Board of Indigent Defense Services and application of attorneys deemed confidential; certain records relating to disciplinary action deemed public records; exceptions.

1. Except as otherwise provided in this section and NRS 239.0115, any complaints, recommendations, records or information obtained by the Board through the complaints and recommendations procedure of NRS 180.320(2)(b) or the application of attorneys pursuant to NAC _____ and any record of any investigation are confidential.
2. The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or other information to another licensing board or any agency that is investigating a person, including a law enforcement agency.

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