

2018 Pending Rules and Temporary Rule

Helping Idaho's counties increase the effectiveness and maintain the integrity of the justice system

Docket No.
61-0106-1701

- IDAPA 61.01.06 (New Chapter)
- Legislative Rules Review Book: Pages 94 - 103

Docket No.
61-0107-1701

- IDAPA 61.01.07 - Existing Chapter
- Legislative Rules Review Book: Pages 104 - 109

Docket No.
61-0108-1701

- IDAPA 61.01.08 (New Chapter)
- Legislative Rules Review Book: Pages 110 - 116

Docket No.
61-0104-1701

- IDAPA 61.01.04 (New Chapter)
- Legislative Temporary Rule Book: Pages 5 - 12

Standards for Defending
Attorneys

- Handout - Document Incorporated by Reference

IDAHO

State of Idaho

Public Defense Commission



IDAPA 61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

- Legislative Pending Rules Review Book: **Docket No. 61-0106-1701**, Pages 94 - 103
- Authority: Idaho Code §§ 19-850(1)(vi) and (c)
- Oversight Program
- Participants and Roles*
- Minimum Standards
- Oversight Program Management*
- Procedures for Oversight Program*
- Corrective Actions and Compliance Verification*
- Enforcement*

IDAHO

State of Idaho

Public Defense Commission



IDAPA 61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

Participants and Roles

- The PDC
- PDC Staff
- Indigent Defense Providers and Defending attorneys
- Counties

IDAHO

State of Idaho

Public Defense Commission



IDAPA 61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

Oversight Program Management

- Applicability of Oversight Program
- Ongoing Coordination
- PDC Staff Reporting to PDC
- Ongoing Consultation with the PDC
- PDC Reporting to .. and Reporting to PDC
 - Executive and Legislative Branches
 - Counties
 - Indigent Defense Providers and defending attorneys
 - Other stakeholders

IDAPA 61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

Procedures for Oversight Program

- Time and Place
- Notification
- Extension
- Items Subject to Review
- Items Subject to Observation
- Persons Subject to Interview
- Timing of Report

IDAHO

State of Idaho

Public Defense Commission

IDAPA 61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

Corrective Action Plans and Compliance Verification

- CAP
 - County response
 - Defending Attorney response
 - Follow-up Reviews
 - Annual Follow-up Review
- Compliance Verification

IDAHO

State of Idaho

Public Defense Commission



IDAPA 61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

Enforcement - Incremental Response

- Failure to Submit to Review
- Failure to Respond to Report
- County Non-compliance
- Defending Attorney non-compliance
- Designation of a Deficiency
- Final Determination of Non-Compliance

IDAHO

State of Idaho

Public Defense Commission



IDAPA 61.01.07 – Rule Governing Standards for Defending Attorneys Utilizing Idaho’s Principles of an Indigent Defense Delivery System

- Legislative Pending Rules Review Book: **Docket No. 61-0107-1701**, Pages 104 - 109
- The Rule
 - Definitions moved to IDAPA 61.01.08
 - Documents incorporated by reference moved to IDAPA 61.01.08
 - Public Defense Roster updated
 - **House Committee voted to reject section 020.01.d, Page 108 (also adopted as HCR 56)**
 - Capital Counsel Roster
- Standards for Defending Attorneys
 - Incorporated into IDAPA 61.01.08

IDAHO

State of Idaho

Public Defense Commission

IDAPA 61.01.08 – Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems

- **Legislative Pending Rules Review Book: Docket No. 61-0108-1701, Pages 110 - 116**
- Authority: Idaho Code §§ 19-850(1) and 19-862A
- Consolidates definitions and documents incorporated by reference into one chapter
- Documents Incorporated by Reference
 - Idaho’s Principles of an Indigent Defense Delivery System
 - Standards for Defending Attorneys
 - Application for Capital Counsel Roster
- Rule Definitions

IDAHO

State of Idaho

Public Defense Commission

IDAPA 61.01.08 – Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems

- Selected Definitions
 - Annual Report
 - Capital Counsel Roster
 - Case
 - Caseload
 - Compliance Proposal
 - Corrective Action Plan
 - Compliance Verification

IDAHO

State of Idaho

Public Defense Commission



IDAPA 61.01.08 – Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems

- Selected Definitions Continued ...
- Established Standards/Indigent Defense Standards
- Finding of Compliance with recommendation
- Finding of Non-Compliance
- Fiscal Year
- Oversight Review
- Public Defense Roster
- Workload

IDAHO

State of Idaho

Public Defense Commission



Document Incorporated by Reference: Standards for Defending Attorneys - 2017 edition

- **See Handout.**
- IDAPA 61.01.08 – Incorporates Standards for Defending Attorneys
 - Investigators and Experts
 - Independent investigation
 - Continuing duty to assess case
 - Reasonable access
 - Defending attorneys should be regularly reviewed and supervised for compliance
 - Capital Counsel Qualifications and Roster

IDAHO

State of Idaho

Public Defense Commission



Document Incorporated by Reference: Standards for Defending Attorneys - 2017 edition

Capital Counsel Qualifications and Roster

- Applicability
- The Defense Team
- Requisite Training and Skills required
 - 12 (twelve) CLE hours every 2 (two) years
 - Attorney qualifications: Lead trial counsel; Co-counsel; Appellate/Post-conviction counsel
 - ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases
- Procedures for Maintaining the Capital Counsel Roster

IDAHO

State of Idaho

Public Defense Commission

IDAPA 61.01.04 – Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense Grants

- Legislative Temporary Rules Review Book: **Docket No. 61-0104-1701 (New Chapter)**, Pages 5-12
- Authority: Idaho Code §§ 19-850(1)(iv) and 19-862A
- Definitions
- Grant Cycle
- Award Eligibility Requirements
- Award Recommendation
- Criteria
- Unused IDG funds

IDAHO

State of Idaho

Public Defense Commission



Thank you for your time!
Any questions?

IDAHO STATE

PLD

PUBLIC

DEFENSE

COMMISSION



Kimberly J. Simmons

Executive Director

Idaho State Public Defense Commission

816 West Bannock St., Suite 201

Boise, ID 83702

(208) 332-1736 – office

(208) 869-3124 – mobile

Kimberly.Simmons@pdc.idaho.gov

IDAHO

State of Idaho

Public Defense Commission

