



POLICY NAME: SUPERVISOR FUNDING

Number: 404-070-001

DIVISION: ADMINISTRATIVE SERVICES DIVISION

Effective Date: 10/1/2023

RESPONSIBLE SECTION: TRIAL DIVISION

APPROVED: Executive Team

Approval Date: 10/24/2023

PURPOSE: Establishes criteria for funding supervision.

AUTHORITY: ORS 151.216 and 151.219

APPLICABILITY: This policy applies to Contracts for Public Defense Services, **except** those under the Parent Child Representation Program (PCRP).

DEFINITIONS FOR PURPOSES OF THIS POLICY:

Full Time Equivalent (FTE) Attorney: A FTE Attorney is an attorney under contract with the PDSC to provide representational services.

Maximum Attorney Caseload (MAC): The annual limits of the number of cases for FTE attorneys set out in Exhibit B for all contracts for public defense services.

Representational Services: Lawyer services and appropriate support staff services, investigation and appropriate sentencing and disposition advocacy, and legal services including but not limited to interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at all court proceedings. The services for which the PDSC is to pay Contractor do not include fees and expenses authorized as routine expenses or case support services as defined by the PDSC.

Staff: Persons who provide support for attorneys and clients through administrative, clerical, communicative, technical or similar work.

Supervision: Providing appropriate and consistent client-centered supervision of all lawyers and staff to ensure competent representation of each client according to national performance standards and ethics rules. This includes continuous monitoring of workloads to assure there is adequate time, thought, and resources to devote to essential defense tasks and that those tasks are, in fact, completed. Supervisors must ensure attorneys and staff are appropriately trained and mentored. This includes providing lawyers and staff with training to learn specific skills or helping them correct deficiencies in their performance through imparting knowledge, providing instruction, and/or changing attitudes and behaviors. Supervisors are responsible for setting expectations, observing attorneys perform, conducting file reviews, staffing cases, and conducting staff meetings.

POLICY

For contractors with at least 3 attorneys, PDSC shall fund supervisors at the rate of 0.1 supervisor FTE for every 1.0 FTE Attorney. No MAC will be associated with any supervisor FTE. A supervisor may still carry a caseload if they supervise fewer than 10.0 FTE Attorneys. The sum of supervision FTE and attorney FTE for any individual under contract shall not exceed 1.0 MAC.

To qualify for supervision funding, the contractor must submit a written supervision plan that is approved by OPDS. The supervision plan must be in writing and submitted yearly to OPDS. The plan must include:

- Name and OPDS qualification level of each supervising attorney.
- Names and OPDS qualification levels of all attorneys to be supervised by each supervising attorney.
- A process for regular check-ins with each attorney being supervised to provide them an opportunity to raise any questions or concerns they may have. The frequency of these check-in, the time scheduled for the check-ins and a procedure for supervisory attorneys to document concerns raised about individual attorneys all must be included.
- Random observation of individual attorneys in court. Newer attorneys and attorneys who have just moved up in qualification standards should be observed relatively frequently, but the plan must include observation of all attorneys during the pendency of the supervision plan. The court observations must be documented, including but not limited to type of case, type of hearing observed, whether witnesses were called during the hearing, etc. The supervision plan must also include a procedure for supervising attorney to document concerns raised about individual attorneys.
- Random file review with each attorney being supervised. The supervising attorney should randomly select cases from the supervised attorney's current caseload for the file review to ensure that, among other things, the client is receiving adequate attention, all issues have been spotted and addressed, appropriate motions have been filed or are in preparation, investigation is appropriate and progressing, and the use of expert witnesses has been considered and appropriately pursued. The supervision plan must also include a procedure for the supervising attorney to document concerns raised about individual attorneys.
- A procedure for how case assignments will be monitored.
- A procedure for addressing complaints or concerns from a client, judge, or opposing counsel.
- An annual performance evaluation for each attorney.

At the conclusion of each year, each supervising attorney shall submit an affidavit or declaration affirming their compliance with the supervision plan and that the contracting entity has the documentation required by the supervision plan.

OPDS shall determine the supervisor FTE to be funded under the contract at the beginning of the contract term or when supervision is first funded under the contract. Subject to the availability of funding and at OPDS' discretion, the supervisor FTE may be adjusted if the number of attorneys being supervised increases by more than twenty percent.

Approved by: Executive Team

Prepared by: Trial Division

Reviewed by: Policy Division

Publish: Internally

Externally