Members:

Jennifer Nash, Chair
Susan Mandiberg, Vice Chair
Peter Buckley
Robert Harris
Alton Harvey, Jr.
Philippe Knab
Tom Lininger
Paul Lipscomb

Oregon Public Defense Commission

Nonvoting Members:

Brook Reinhard
Rep. Paul Evans
Sen. Floyd Prozanski

Interim Executive Director:

Kenneth Sanchagrin

Oregon Public Defense Commission Workgroup
Meeting will occur virtually
Thursday, June 26, 2025
5:00 to 6:30pm
*Via Zoom**

Administrative Announcement
This is a public meeting, subject to the public meeting law and it will be recorded. Discussion will only be allowed amongst Commission members and staff for the duration of this meeting. Public comment will not be allowed during this meeting.

AGENDA

Approx. Time	Item	Lead(s)
5:00-5:05	Welcome	Chair Nash
5:05-5:15	**Discussion:** Introduction to Commissioner Philippe Knab	Chair Nash
5:15-6:00	**Discussion:** Attorney Qualification Standards	Steve Arntt
6:00-6:15	**Discussion:** Commission Q&A Sessions	Chair Nash
6:15-6:30	**Discussion:** Commission Governance	Chair Nash
6:30 (Approximately)	***Adjourn***	

**To join the Zoom meeting, click this link: https://zoom.us/j/96692125376. This meeting is accessible to persons with disabilities or with additional language service needs. Our Zoom virtual meeting platform is also equipped with Closed Captioning capabilities in various languages, which agency staff can assist you with setting up ahead of meetings. Requests for interpreters for the hearing impaired, for other accommodations for persons with disabilities, or for additional interpreter services should be made to info@opdc.state.or.us. Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your*

needs. Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.

Next meeting: ***August 7, 2025, 5-6:30pm via Zoom.***
Meeting dates, times, locations, and agenda items are subject to change by the Commission; future meeting dates are posted at: https://www.oregon.gov/opdc/commission/Pages/meetings.aspx



Attorney Qualification Standards

(DRAFT)

April 2025

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Qualification Standards for All Public Defense Attorneys

These Standards repeal and replace PUBLIC DEFENSE SERVICES COMMISSION QUALIFICATION STANDARDS FOR COURT-APPOINTED COUNSEL TO REPRESENT FINANCIALLY ELIGIBLE PERSONS AT STATE EXPENSE, dated December 19, 2019

OPDC Qualification Standards set minimum guidelines to ensure that attorneys providing state funded public defense services:

- have the appropriate level of experience for cases assigned;
- are adequately staffed; and
- meet their ethical and professional responsibilities.

OPDC certified attorneys must meet not only case type and case level requirements, but also general requirements common to all attorneys seeking to provide OPDC funded legal representation.

Licensure to Practice Law in Oregon

All Attorneys providing OPDC funded legal representation must maintain an active license to practice law in Oregon and be in good standing with the Oregon State Bar.

Rules of Professional Conduct

All attorneys providing OPDC funded legal representation must review, be familiar with, and agree to abide by the current version of the Oregon Rules of Professional Conduct.

Constitutional Law

All attorneys providing OPDC funded legal representation must have reviewed and be familiar with the current versions of the United States Constitution and the Oregon Constitution.

Caseloads

All attorneys providing OPDC funded legal representation must commit to providing competent and effective representation to each client and to ensuring that the size and complexity of their caseloads do not interfere with providing competent representation to each client or lead to the breach of professional obligations.

Court Rules

All attorneys providing OPDC funded legal representation must review and be familiar with all court rules applicable to the types of cases and jurisdictions in which they provide legal representation. These include not only the Uniform Trial Court Rules, but also supplementary local rules, and Oregon Rules of Appellate Procedure.

File Maintenance

OPDC certified attorneys must maintain client files for a period of ten years, unless required by the Oregon State Bar to maintain the client files for a longer period

Accessibility

All attorneys providing OPDC funded legal representation must maintain:

- **a working email address;**
- **a working phone capable of receiving calls from incarcerated clients; and**
- **ready access to formal meeting spaces for meeting with clients, family members, witnesses, etc.**

No attorney providing OPDC certified attorneys may not take cases in a judicial district that would prevent them from maintaining client contact or otherwise providing adequate representation to all clients pursuant to the performance standards.

Qualification Standards for Representation in Criminal Proceedings

Criminal Attorney 1 Qualifications

Case Assignments

An attorney certified by OPDC as a Criminal Attorney 1 (CA1) may accept appointment in:

- Misdemeanor cases, as defined under ORS 161.545;
- Probation violation proceedings where the underlying crime was a misdemeanor;
- Arraignments on all cases; and
- Contempt proceedings, as defined under ORS 33.015.

Minimum Qualifications for Criminal Attorney 1 Certification

To be certified as a Criminal Attorney 1, an attorney must meet at least the following criteria:

1. Review and be familiar with the current versions of the:
    a. Oregon Criminal Code, ORS chapter 161 through 169;
    b. Oregon Vehicle Code, ORS chapter 801 through 826;
    c. Oregon Evidence Code, ORS chapter 40; and
    d. Criminal drug offenses and other crimes outside of the Criminal Code;
2. Has reviewed, is familiar with, and agrees to abide by the current versions of:
    a. American Bar Association, *Criminal Justice Standards for the Defense Function* (4th ed 2017);
    b. Office of Public Defense Services, *Best Practices for Oregon Public Defense Providers* (2010);
    c. All applicable OPDC Performance Standards for Criminal Representation;
    d. Oregon State Bar, *Report of the Task Force on Standards of Representation in Criminal and Juvenile Delinquency Cases* (Apr 2014);
    e. American Bar Association, *Ten Principles of a Public Defense Delivery System* (Aug 2023);

3. Satisfies at least one of the following:
    a. Meets both of the following conditions:
        i. Represented clients in criminal cases as either a:
            a) certified law student under the Oregon Supreme Court Rules on Law Student Appearances, for at least six months;
            b) a Supervised Practice Portfolio Examination (SPPE) applicant; or
            c) a student who participated in a law school criminal court clinic within three years prior to requesting qualification under this standard; and
        ii. Presents a letter from their immediate supervisor certifying the person's qualification to represent clients in misdemeanor cases;
    b. Has served as counsel or co-counsel in at least two criminal cases that were tried to a jury;
    c. Has served as co-counsel in at least five criminal cases. Such service should have included attendance at court appearances and client interviews in each case;
    d. Has served as a judicial clerk for at least six months in a court that regularly conducted criminal trials within three years prior to requesting qualification under this standard; or
    e. Has completed an OPDC-approved training program.

Criminal Attorney 2 Qualifications

Case Assignments

In addition to appointments a Criminal Attorney 1 may accept, an attorney certified by OPDC as a Criminal Attorney 2 may accept appointments in:

- Appointments to Criminal Attorney 1 cases;
- Felony cases as defined under ORS 161.525 other than those requiring certification as a Criminal Attorney 3 or Criminal Attorney 4; and
- All probation violations in which the underlying crime was a felony.

Minimum Qualifications for Criminal Attorney 2

To be certified as a Criminal Attorney 2, an attorney must meet Criminal Attorney 1 standards and the following criteria:

1. Has represented clients in misdemeanor cases for at least 12 months if their practice is at least half-time criminal defense work or 18 months if their practice is less than half-time criminal defense;

2. Has represented clients in at least 100 criminal cases from arraignment, or immediately thereafter, through the conclusion of the case;
3. Has drafted at least five motions and argued at least two substantive pretrial motions (e.g., motions to suppress, motions *in limine*, release motions in which witnesses are examined, or evidence is taken, motions to compel discovery, etc.) before a judge. A copy of a motion or case number in which it was filed should be submitted with the application for certification. The motion must be one that the applicant attorney was the primary drafter of but need not be in a case on which the applicant was the lead attorney;
4. Can demonstrate their use of investigators in cases;
5. Can demonstrate an understanding of the process for locating and obtaining funding for an expert witness in a case (including psychiatric evaluators, substance use evaluators, medical experts, etc.);
6. a. As lead counsel has tried at least four misdemeanor cases, at least one of which was before a jury; or,
   b. In the alternative to at most two of the trials required in subsection 8.a., an attorney may:
      i. Co-counsel cases tried to a jury as second chair if they take sole responsibility for at least two of the following sections of the trial: jury selection, opening statement, closing argument, direct examination of a witness or cross examination of a state's witness;
      ii. Argue at least one contested sentencing to a judge; and
      iii. Submit letters of reference from the lead counsel in those trials attesting to the applicant attorney's ability and competence to represent clients in felony cases;
   c. Applicant attorneys may submit a letter to OPDC explaining why they are unable to meet the requirements of this section and OPDC may consider exceptions to the required four trials if an attorney is unable to meet that requirement based on factors beyond the attorney's control.
7. In at least one felony case tried to a jury, has served as co-counsel with an attorney who has previously tried felony cases and is otherwise qualified to try felony cases under these standards. As co-counsel applicant attorney must participate in the planning and trial of the case including contact with the client as well as court appearances; and

Case Assignments

In addition to appointments a Criminal Attorney 2 may accept, an attorney certified by OPDC as a Criminal Attorney 3 may accept appointment in:

- All cases brought under ORS 137.700 other than murder;

- In cases charging criminally negligent homicide or manslaughter, provided they have co-counsel who is also certified as at least Criminal Attorney 3;
- Felony offenses listed in ORS 163.305-163.479 and 163.665-163.693 (sex offenses); and
- Cases charged under 161.610 (Firearm minimum cases); and
- For all material witnesses or witnesses who are assigned an attorney after invocation of their rights.

Criminal Attorney 3 Qualifications

Case Assignments

In addition to appointments a Criminal Attorney 2 may accept, an attorney certified by OPDC as a Criminal Attorney 3 may accept appointment in:

- All cases brought under ORS 137.700 other than murder;
- In cases charging criminally negligent homicide or manslaughter, provided they have co-counsel who is also certified as at least Criminal Attorney 3;
- Felony offenses listed in ORS 163.305-163.479 and 163.665-163.693 (sex offenses); and
- Cases charged under 161.610 (Firearm minimum cases); and
- For all material witnesses or witnesses who are assigned an attorney after invocation of their rights.

Minimum Qualifications for Criminal Attorney 3

To be certified as a Criminal Attorney 3, an attorney must meet at least the following criteria:

1. Meets the OPDC requirements for certification as a Criminal Attorney 2;
2. Has represented clients in felony cases for at least 18 months;
3. Has represented at least 45 clients in felony matters from arraignment, or immediately thereafter, through the conclusion of the case;
4. Has co-counseled at least three cases filed under ORS 137.700 with a lead counsel who is certified as a Criminal Attorney 3 or 4. During these cases the attorney must be co-counsel from the beginning of the case until the resolution of the case;
5. Has tried at least one case charged under ORS 137.700 as co-counsel with an attorney who is certified as a Criminal Attorney 3 or 4.;
6. Has tried at least four felony cases to juries as lead counsel;

7. Participated as either lead or co-counsel in a trial where the applicant argued motions and presented expert witness testimony;
8. The applicant attorney has a professional network of support and can provide the names of at least three attorneys OPDC certified Criminal Attorney 3 or 4 who demonstrate this support; and
9. Has demonstrated proficiency working with clients with mental disorders, including the use of psychological evaluations for determining fitness to proceed questions as well as mitigation.

Criminal Attorney 4 Qualifications

Case Assignment

In addition to appointments a Criminal Attorney 3 may accept, an attorney certified by OPDC as a Criminal Attorney 4 may accept appointments:

- As lead counsel in all cases charging any degree of non-capital murder;
- As solo counsel in cases charging criminally negligent homicide or manslaughter;
- For crimes charged under Jessica's Law; and
- For any charge for which the penalty could be a potential life sentence.

Minimum Qualifications for Criminal Attorney 4

To be certified as a Criminal Attorney 4, an attorney must meet Criminal Attorney 3 standards and the following criteria:

1. Has a minimum of two years of experience representing clients in felony cases;
2. As lead counsel has tried to a jury at least five cases that require certification as a Criminal Attorney 3, including at least one case in which a felony sex offense was alleged;
3. a. Has represented clients as co-counsel in at least:
    i. One case charged under Jessica's Law from the beginning of the case through its resolution;
    ii. One case with degree of murder charged from the beginning of the case through its resolution; and
    iii. One trial before a jury, either any degree of murder or a crime under Jessica's Law charged;
    b. In the alternative to subsection 3.a., an applicant may show that they have:

i. Practiced criminal defense for at least five years; and

ii. As lead counsel has tried at least ten cases to a jury. Trials must have been within 12 years of the application and at least five of the trials must have been cases requiring certification as a Criminal Attorney 3. These may be the same trials used to satisfy subsection 2; and

4. Provides letters from at least three attorneys certified as Criminal Attorney 3 or higher, one of which should be an attorney who has served as cocounsel with the applicant. These letters should demonstrate that the applicant possesses the necessary education, training, skills, and experience necessary to provide competent representation to defendants charged with serious felony crimes. These recommendations should demonstrate that the attorney recommending the applicant has personal knowledge of the applicant handling cases involving co-defendants, a significant number of witnesses, and cases involving suppression issues, expert witnesses, mental state issues, and scientific evidence.

Criminal Attorney 5 Qualifications

Case Assignments

In addition to appointments a Criminal Attorney 4 may accept an OPDC Criminal Attorney 5 may accept appointments:

- **As lead counsel in all cases charging capital murder.**

Minimum Qualifications for Criminal Attorney 5

To be certified as a Criminal Attorney 5, an attorney must meet at least the following criteria:

1. **Has met the Criminal Attorney 4 criteria and has been practicing at that level for at least 5 years;**
2. **Can demonstrate:**
   a. **substantial knowledge and understanding of the relevant state and federal procedural and substantive law governing capital cases;**
   b. **skill in managing and conducting complex negotiations and litigation;**
   c. **skill in the use of expert witnesses and familiarity with common areas of forensic investigation;**
   d. **skill in analyzing and handling digital evidence from different kinds of sources and/or the knowledge of what experts to hire to assist the defense team in this area;**

e. **skill in the investigation, preparation and presentation of evidence bearing on mental conditions and status;**

f. **skill in the investigation, preparation, and presentation of mitigation evidence;**

i. **skill in the elements of trial advocacy, such as jury selection including the National College of Capital Voir Dire (NCCVD) method, cross-examination of witnesses, and opening and closing statements;**

j. **understanding of the standards set forth in Guidelines 10.2 to 10.15.2 of the American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Revised Edition, February 2003 (as adopted by OPDC in 2014).**

k. **understanding of and agrees to fulfill the current version of the ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases.**

3. **Within the last 3 years the applicant has attended at least two specialized training courses related to representing clients accused in capital murder cases. Capital defense training programs should include presentations in one or more of the following areas:**

   i. **relevant federal, state, and international law;**

   ii. **pleading and motion practice;**

   iii. **pretrial investigation, preparation, and theory development regarding guilt/innocence and penalty;**

   iv. **jury selection;**

   v. **trial preparation and presentation, including use of experts;**

   vi. **ethical considerations particular to capital defense representation;**

   vii. **preservation of the record and of issues for appeal and post-conviction review;**

   viii. **ethical obligation of trial counsel to cooperate with post-conviction counsel;**

   ix. **counsel's relationship with the client and their family;**

   x. **post-conviction litigation in state and federal courts; and**

   xi. **presentation and rebuttal of scientific evidence, and developments in mental health fields and other relevant areas of forensic and biological science; or**

   xii. **analyzing, handling, and using digital evidence.**

4. **Was lead counsel on five (5) cases at the Criminal Attorney 4 level to resolution;**

5. **Has acted as co-counsel on two (2) Murder in the First-Degree case to resolution of the case; and**
6. **Submits three letters from lawyers qualified by OPDC as Criminal Attorney 5, including at least one attorney who was lead counsel in one of the cases used to satisfy subsection 5 of this rule. The letters must outline the reasons that the writer believes that the applicant possesses a high-level of learning, scholarship, training, experience, or ability to provide competent representation for defendants charged with Capital Murder cases.**

Qualification Standards for Representation in Delinquency Proceedings

Delinquency Attorney 1

Case Assignments

An attorney certified by OPDC as a Delinquency Attorney 1 (DelA1) may accept appointments in the following cases:

- Misdemeanor-level cases as defined under ORS 161.545 excluding misdemeanor-level sex offenses;
- Misdemeanor-level probation violations excluding misdemeanor-level sex-offenses;
- Misdemeanor-level Formal Accountability Agreements (FAA) excluding misdemeanor-level sex offenses;
- Extradition pursuant to the Interstate Compact for Juveniles (ICJ); and
- Status offense cases.

Minimum Qualifications for Delinquency Attorney 1

To be certified as a Delinquency Attorney 1, an attorney must meet at least the following criteria:

1. Has reviewed and is familiar with the current versions of the:
    a. Oregon Juvenile Code, ORS chapter 419A through 419C;
    b. Oregon Criminal Code, ORS chapter 161 through 169;
    c. Oregon Vehicle Code, ORS chapter 801 through 826;
    d. Oregon Evidence Code, ORS chapter 40; and
    e. The criminal drug offenses and other crimes outside of the Criminal Code;
2. Has reviewed, is familiar with, and agrees to abide by:
    a. American Bar Association, *Standards Relating to Juvenile Delinquency and Sanctions* (1980);
    b. Oregon State Bar, *Report of the Task Force on Standards of Representation in Criminal and Juvenile Delinquency Cases* (Apr 2014);

c. National Juvenile Defender Center (now The Gault Center), *National Juvenile Defense Standards* (2012);

d. The Gault Center, *National Youth Defense System Standards* (Feb 2024);

e. Campaign for the Fair Sentencing of Youth, *Trial Defense Guidelines: Representing a Child Client Facing a Possible Life Sentence* (2015); and

f. American Bar Association*, Ten Principles of a Public Defense Delivery System* (Aug 2023); and

3. Satisfies one of the following:

a. Meets the requirements to be certified as a Criminal Attorney 1 and has completed an OPDC-approved mentorship under certified Delinquency Attorney 3 or 4. Mentorships must include observations in court of at least an admission and dispositional hearing and a contested adjudication or motion hearing. It should also include observation of at least five youth meetings, of which at least two must be the initial meeting, an introduction to the local bench and bar, and a discussion of ethical issues facing juvenile defenders; or

b. Does Criminal Attorney 1 criteria; but

i. Has co-counseled three delinquency cases with an attorney certified as a Delinquency Attorney 3 or 4 from initial meeting through disposition, including informal dispositions; and

ii. Has completed an OPDC-approved training program or an OPDC approved mentorship program as described under 3.a.ii of this section, when available; or

c. Can demonstrate expertise and competence in juvenile delinquency. Competence can be demonstrated by:

i. Completion of a juvenile delinquency law school clinic program within three years prior to requesting qualification under this standard **and presentation of a letter from their immediate supervisor certifying the applicant's ability to represent clients in misdemeanor level delinquency cases;** or

ii. Service as a judicial clerk for at least six months in a juvenile court within three years of requesting qualification under this standard; or

iii. Practice as a juvenile defender in another state for at least six months.

Delinquency Attorney 2

Case Assignment

In addition to appointments a Delinquency Attorney 1 may accept, an attorney certified by OPDC as a Delinquency Attorney 2 may accept appointments in the following cases:

- Misdemeanor-level sex cases;
- Felony-level cases excluding felony-level sexual offenses and ORS 137.707 cases; and
- Cases in which the State wants to hold a youth as a material witness.

An attorney certified as Delinquency Attorney 2 may also accept appointments for formal accountability agreements (FAA), juvenile post-adjudication relief (JPAR), and probation violations for the above case types.

Minimum Qualifications for Delinquency Attorney 2

To be certified as a Delinquency Attorney 2, an attorney must meet at least the following criteria:

1. Has been certified by OPDC as a Delinquency Attorney 1 for at least nine months;
2. As Delinquency Attorney 1, has represented clients in ten cases through disposition, including informal dispositions, including at least one contested hearing in which witnesses were examined;
3. Can demonstrate their use of investigators in cases;
4. Can demonstrate an understanding of the process for locating and obtaining funding for an expert witness in a case (including psychiatric evaluators, substance use evaluators, medical experts, etc.);
5. Can demonstrate experience with written motion or mitigation advocacy as shown by submission of a redacted written motion or mitigation letter for which the applicant was the primary author;
6. Has served as co-counsel with an attorney who is certified as a Delinquency Attorney 3 on at least two Delinquency Attorney 3 level cases from the start of the case through disposition, including informal dispositions, and co-counseled at least one adjudication. The attorney need not be on the case that counts as the adjudication from the beginning if the attorney meets the following requirements:
    a. The attorney must have had sole responsibility for at least two of the following sections of the adjudication: opening statement, direct examination of a witness, cross-examination of a state's witness or closing argument; and

b. Submits letters from the lead counsel in the adjudication attesting to the applicant attorney's ability and competence to represent youth in felony-level cases;

7. Upon request, the applicant can present an additional showing of expertise and competence in juvenile delinquency practice by submitting three letters from delinquency defense attorneys who are familiar with the work of the attorney requesting qualification as a defense attorney representing youth in juvenile court within the last two years. These letters cannot be from the same attorney who attests to the applicant's work in section 6.b. above.

Delinquency Attorney 3

Case Assignments

In addition to appointments a Delinquency Attorney 2 may accept, an attorney certified by OPDC as a Delinquency Attorney 3 (DelA3) may accept appointments in the following cases:

- Felony-level sex offense cases, including sex offender registration hearings;
- Cases with offenses listed in ORS 137.707, excluding first-degree and second-degree murder cases; and
- Any case, excluding aggravated, first-degree, and second-degree murder, cases, in which the state has indicated an intent to file a motion to waive juvenile court jurisdiction. An attorney may not be lead counsel on such a case until they have met the requirement in 3.a. below.

An attorney certified as Delinquency Attorney 3 may also accept appointments for formal accountability agreements (FAA), juvenile post-adjudication relief (JPAR), and probation violations for the above case types.

Minimum Requirements

To be certified by OPDC as a Delinquency Attorney 3, an attorney must meet at least the following criteria:

1. Has been certified as a Delinquency Attorney 2 for at least eighteen months;
2. Has handled, as a defense attorney, ten Delinquency 2 level cases through disposition, including informal dispositions and two contested hearings in which the attorney examined witnesses;
3. Can meet one of the following categories of requirements:
   a. Category 1

      Has co-counseled with a Delinquency Attorney 3 or 4 at least five Delinquency 3 cases as a defense attorney from initial appearance

through disposition, with at least two adjudications at which the attorney had sole responsibility for at least two of the following:

1. Opening statement;
2. Direct examination of a witness;
3. Cross examination of a state's witness; and/or
4. Closing argument; and

b. ii. Category 2

Has co-counseled to jury trial, with Criminal Attorney 3 or 4, one case charged under 137.700 at which the attorney must have had sole responsibility for at least two of the following sections of the trial:

1. Jury selection;
2. Opening statement;
3. Direct examination of a witness;
4. Cross examination of a state's witness; or
5. Closing argument.

Has co-counseled one case in which the State has indicated an intent to file a motion to waive juvenile court jurisdiction through resolution of that issue; or

4. Can demonstrate proficiency in and knowledge of working with youth with mental health issues; and
5. Has a professional network to support the applicant attorney as the need arises and can provide the names of at least three attorneys certified as Delinquency Attorney 3 or 4 who acknowledge this support.

Delinquency Attorney 4

Case Assignment

In addition to appointments a Delinquency Attorney 3 may accept, an attorney certified by OPDC as a Delinquency Attorney 4 may accept appointment as lead counsel in aggravated, first-degree, and second-degree murder cases.

An attorney certified as Delinquency Attorney 4 may also accept appointments for formal accountability agreements (FAA), juvenile post-adjudication relief (JPAR), and probation violations for the above case types.

Minimum Qualifications

To be certified as a Delinquency Attorney 4 an attorney must meet at least the following criteria:

1. Has met OPDC Delinquency Attorney 3 requirements for at least two years;

2. As lead counsel has tried at least five cases requiring certification as a Delinquency Attorney 3;
3. Meets one of the following requirements:
    a. Has co-counseled at least one Delinquency 4 or Criminal 4 case from the beginning of the case through its resolution with an attorney certified by OPDC to handle the case; or
    b. Has practiced juvenile delinquency defense for at least five years and has tried 15 cases to resolution. Adjudications must have been within 12 years of the application and at least five of the adjudications must have been cases which require Attorney 3 qualifications (criminal or delinquency). If criminal, then the trials must have been to a jury. These may be the same trials or adjudications used to satisfy section 2 above;
4. Has co-counseled a case in which the State indicated an intent to file a motion to waive juvenile court jurisdiction from the time that the State indicated such intent through the resolution of the case; and
5. Provides letters from at least three people, including the attorney who was lead counsel in one of the cases used to satisfy 3.a.) above. If the attorney is qualifying pursuant to 3.b., then at least two letters must be from attorneys who are certified as Delinquency Attorney 4. Submitted letters must state whether the attorney possesses a high level of learning, scholarship, training, experience, and ability to provide competent representation to youth facing a Delinquency 4 level case, including handling cases with co-youth, a significant number of witnesses, suppression issues, expert witnesses, mental state and mental health issues, and scientific evidence.

Qualification Standards for Representation in Dependency Proceedings

Dependency Attorney 1

Case Assignments

An attorney certified by OPDC as Dependency Attorney 1 (DepA1) may accept appointments to:

- Represent eligible parties in dependency proceedings initiated under ORS 419B.100;
- Serve as guardian *ad litem* for a parent in dependency proceedings initiated under ORS 419B.100 (excluding permanent guardianship proceedings); and
- Represent eligible parties in court oversight of agreements for voluntary placement of a child under ORS 418.312.

Minimum Qualifications for Dependency Attorney 1

To be certified as a Dependency Attorney 1, an attorney must meet the following criteria:

1. Has reviewed and is familiar with the current versions of:
    a. Oregon Juvenile Code, ORS chapter 419A through 419C;
    b. Oregon Evidence Code, ORS chapter 40;
    c. ORS chapter 109 (concerning parent-child relationships);
    d. ORS chapter 409 (concerning Department of Human Services' child welfare programs);
    e. Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901-63 (ICWA), PL 105-89 (ASFA);
    f. Adoption and Safe Families Act of 1997, PL 105-89;
    g. Oregon Administrative Rules Chapter 413;
2. Has reviewed is familiar with, and agrees to abide by the current versions of:
    a. OPDC performance standards for dependency representation, when adopted;
    b. Oregon State Bar, *Specific Standards for Representation in Juvenile Dependency Cases* (2017);

3. Satisfies one of the following:
    a. Confirmation from an OPDC-approved attorney mentor that the attorney has sufficient understanding of the judicial, quasi-judicial, and administrative processes regulating state intervention in families in Oregon; or
    b. Twelve months' experience representing parties in dependency proceedings in Oregon or another state if that practice is at least half-time, or 18 months' experience if less than half-time.

4. Demonstrates proficiency in litigation as shown by:

    a. Providing four examples of the following from matters the attorney handled in public or private practice:
        i. Contested motions for which witnesses were called to testify;
        ii. Administrative hearings (before an administrative law judge) in which witnesses were called to testify;
        iii. Taking and defending depositions;
        iv. Contested adjudication on the merits before a jury, referee, or circuit court judge, which would satisfy two of the four activities needed under this provision.

    b. Meet OPDC for Criminal Level 2 or Delinquency Level 2 requirements or provide a recommendation from an OPDC-approved attorney that the attorney has sufficient litigation experience to adequately represent the appointed clients. This recommendation should be from an attorney who can attest to the applicant's ability to effectively communicate with clients and conduct interviews with individuals who have suffered substantial trauma.
    c. And one of the following:
        i. Six months' experience representing individual clients if that practice is at least half-time or 12 months if less than half-time (may be concurrent with subsection 3 above); or
        ii. Twelve months' experience representing institutional clients (may be concurrent with subsection 3 above);

5. Demonstrate proficiency utilizing core staff and experts, by any of the following:
    a. Providing OPDC or court records indicates familiarity with OPDC's Pre-Authorized Expenses process; or

b. Confirmation from an OPDC-approved attorney that the attorney has a sufficient practice network to assist in the identification and funding of relevant core staff and experts.

Dependency Attorney 2

Case Assignment

In addition to appointments a Dependency Attorney 1 may accept, an attorney certified by OPDC at Dependency Level 2) may accept appointments to:

- Represent eligible parties in termination of parental rights proceedings initiated under ORS 419B.500;
- Serve as a guardian *ad litem* for a parent in termination of parental rights proceedings initiated under ORS 419B.500;
- Represent eligible parties in permanent guardianship proceedings initiated under 419B.365; and
- Serve as a guardian *ad litem* for a parent in permanent guardianship proceedings initiated under ORS 419B.365.

Minimum Qualifications for Dependency Attorney 2

To be certified as a Dependency Attorney 2, an attorney must meet the following criteria:

1. Has met the OPDC as Dependency Attorney 1 qualifications for at least 12 months if their practice is at least half-time dependency work or 18 months if their practice is less than half-time.
2. Satisfies one of the following conditions:
    a. Has observed two contested termination of parental rights or permanent guardianship trials submitted to a judge for consideration;
    b. Has co-counseled one contested termination of parental rights or permanent guardianship trial submitted to a judge for consideration; or
    c. Has completed an OPDC-approved termination of parental rights and permanent guardianship training curriculum, when available.

Qualification Standards for Representation in Civil Commitment Proceedings

Civil Commitment Attorney 1

Case Assignment

An OPDC Civil Commitment Attorney 1 may accept appointment in proceedings under ORS chapters 426 and 427 other than proceedings alleging that a person is "extremely dangerous" under ORS 426.701.

Minimum Qualifications for Civil Commitment Attorney 1

Civil Commitment Attorney 1, an attorney must meet at least the following criteria:

1. Review and be familiar with:
    a. ORS chapters 426 and 427; and
    b. Oregon Evidence Code, ORS chapter 40.
2. Try three civil, juvenile, or criminal cases to a jury or the bench.
3. Satisfy one of the following:
    a. Observe five complete civil commitment hearings from start to finish;
    b. Serve as co-counsel in two complete civil commitment cases which resulted in a hearing.
4. Demonstrate knowledge of mental health issues and proficiency in working with clients experiencing mental health issues; and
5. Maintain familiarity with the resources available for those facing commitment and alternatives to commitment.

Civil Commitment Attorney 2

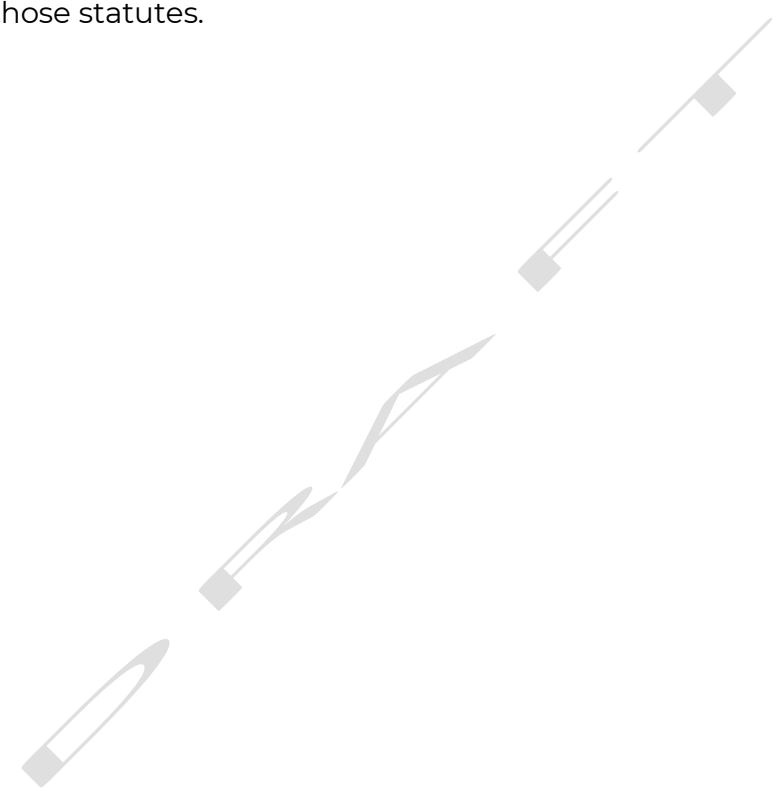
Case Assignment

In addition to appointments a Civil Commitment Attorney 1 may accept OPDC certified Civil Commitment Attorney 2 may accept appointments in proceedings alleging that a person is "extremely dangerous" under ORS 426.701.

Minimum Qualifications for Civil Commitment Attorney 2

Civil Commitment Attorney 2 applicants must meet at least the following criteria:

1. Meet OPDC requirements for Civil Commitment Attorney 1;
2. Meet OPDC requirements for Criminal Attorney 3 certification or must ensure that a Criminal Attorney 3 is co-counsel on each petition;
3. Meet the requirements for PSRB Attorney 1 certification;
4. Has acted as lead counsel on a minimum of three proceedings under chapters 426 or 427 that resulted in a contested adjudication; and
5. Has knowledge of the statutes governing the commitment of individuals determined to be "extremely dangerous" and the consequences of being committed under those statutes.



Qualification Standards for Representation in Psychiatric Security Review Board (PSRB) Proceedings

PSRB Attorney

Case Assignment

OPDC certified Psychiatric Review Board (PSRB) Attorneys may accept appointments in proceedings before the Psychiatric Security Review Board.

Minimum Qualifications for PSRB Attorneys

To be certified as a PSRB Attorney, an attorney must meet at least the following criteria:

1. Review and have working knowledge of the constitutional rights of clients under PSRB jurisdiction and OAR chapter 859;
2. Be Familiar with the Oregon State Hospital and the process of how a person moves through that system;
3. Meet Civil Commitment Attorney 1 requirements or have handled five cases in which a client's fitness to proceed was raised;
4. Has been lead counsel in:
    a. Three civil, criminal, or juvenile cases tried to a jury or the bench;
    b. Six administrative hearings before an administrative law judge; or
    c. Three contested hearings in which witnesses were called.

Qualification Standards for Representation in Post-Conviction Relief (PCR) Proceedings

PCR Attorney 1

Case Assignment

An attorney certified by OPDC as a PCR Attorney 1 may accept appointments in all post-conviction relief proceedings under ORS chapter 138 for which the attorney is certified to provide representation in the underlying criminal case, other than **petitions requesting the commencement of DNA testing under ORS 138.690 and petitions** in which the underlying conviction is for any degree of murder or aggravated murder.

Minimum Qualifications

To be certified as a PCR Attorney 1, an attorney must meet at least the following criteria:

1. Review and be familiar with:
    a. Post-conviction relief statutes, ORS 138.510 to 138.686, and caselaw interpreting it;
    b. Federal *habeas corpus* statutes and caselaw concerning exhaustion of state remedies;
    c. The law regarding procedural default;
    d. Relevant statutes of limitations;
2. Understands the Oregon Rules of Civil Procedure and Oregon Evidence Code, ORS chapter 40, as demonstrated by:
    a. Having previously drafted and filed at least three civil pleadings, including *habeas corpus* or PCR petitions, in state or federal court;
    b. Having litigated at least three prior civil cases, including PCR and *habeas corpus*, to judgment in state or federal court; and
    c. Having reviewed chapters 5 and 23 through 27 of Oregon State Bar, *Oregon Civil Pleading and Litigation* (2020);
3. Satisfies one of the following categories of requirements:
    a. Has tried at least four cases of the same level as the underlying criminal case to verdict as lead counsel; or

b. Satisfies all the following conditions:
    i. Is a certified OPDC Criminal Attorney 1;
    ii. Is knowledgeable of criminal trial procedures, defenses, sentencing guidelines, and constitutional rights of the criminally accused; and
    iii. Has tried at least two civil cases to verdict, five criminal cases before a jury, or ten delinquency cases before a judge;
4. Has litigated four contested hearings or depositions in which the attorney examined expert witnesses;
5. Can demonstrate their use of investigators in cases; and
6. Has co-counseled two post-conviction relief cases or is acting under the supervision of a PCR Attorney 1 qualified lead counsel.

PCR Attorney 2

Case Assignment

In addition to appointments a PCR Attorney 1 may accept, an attorney certified by OPDC as a PCR Attorney 2 may accept appointment in **petitions requesting the commencement of DNA testing under ORS 138.690 and** all **other** post-conviction relief proceedings under ORS chapter 138 in which the underlying conviction is any degree of murder other than aggravated murder.

Minimum Qualifications

To be certified as a PCR Attorney 2, an attorney must meet at least the following criteria:

1. Meet the requirements for PCR Attorney 1 for at least 12 months;
2. Meet the requirements of Criminal Attorney 4; and
3. Has litigated at least five PCR cases to a decision by the court in which the underlying convictions were subject to ORS 137.700 or similar mandatory minimum sentences.

PCR Attorney 3

Case Assignment

In addition to appointments a PCR Attorney 2 may accept, an attorney certified by OPDC as a PCR Attorney 3 may accept appointments in all post-conviction relief proceedings under ORS Chapter 138 in which the underlying conviction is aggravated murder.

Minimum Qualifications

To PCR Attorney 3 applicants must meet the following criterial:

1. **Meet the requirements of a PCR Attorney 2 for at least three (3) years;**
2. **Has civil case experience including knowledge of Rules of Civil Procedure and how to conduct a civil case including pleadings, timelines, and depositions;**
3. **Has conducted five (5) evidentiary hearings in a PCR case where multiple witnesses were called and arguments made before the court;**
4. **Can demonstrate:**
    d. **substantial knowledge and understanding of the relevant state, federal and international law, both procedural and substantive, governing capital cases;**
    e. **skill in the management and conduct of complex negotiations and litigation;**
    f. **skill in legal research, analysis, and the drafting of litigation documents;**
    g. **skill in oral advocacy;**
    h. **skill in use of expert witnesses and familiarity with common areas of forensic investigation, including fingerprints, ballistics, forensic pathology, DNA evidence and "junk" science;**
    i. **skill in investigation, preparation and presentation of evidence bearing on mental condition and status;**
    j. **skill in the investigation, preparation, and presentation of mitigation evidence;**
    k. **understanding of the standards set forth in Guidelines 10.2 to 10.15.2 of the American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty cases, Revised Edition, February 2003 (as adopted by OPDS in 2014); and**
    l. **understanding of and agrees to fulfill the current version of the ABA Supplementary Guidelines for the Mitigation Function of Defense Teams in Death Penalty Cases.**
5. **Has demonstrated a commitment to PCR advocacy through relevant continuing education and conference attendance during the preceding three years.**
6. **Handled five (5) PCR Attorney Level 2 cases to resolution;**

7. **Has co-counseled two (2) cases at the PCR Attorney 3 level cases to resolution of the case;**
8. **Submits three letters from lawyers qualified by OPDC at PCR Attorney 3, including at least one attorney who was lead counsel in one of the cases used to satisfy subsection 6 of this rule. The letters must outline the reasons that the writer believes that the applicant possesses a high-level of learning, scholarship, training, experience, and ability to provide competent representation for defendants in post-conviction status on Capital Murder cases.**

Qualification Standards for Representation in *Habeas Corpus* Proceedings

Habeas Corpus Attorney 1

Case Assignment

OPDC Habeas Corpus Attorney 1 certified attorneys may accept appointments in extradition cases and proceedings challenging the state's authority to confine the petitioner.

Minimum Qualifications

To be certified as a Habeas Corpus Attorney 1, an attorney must meet at least the following criteria:

1. Understands the Oregon Rules of Civil Procedure and Oregon Evidence Code, ORS chapter 40, as demonstrated by:
    a. Having previously drafted and filed at least three civil pleadings, including *habeas corpus* or PCR petitions, in state or federal court;
    b. Having litigated at least three prior civil cases, including PCR and *habeas corpus*, to judgment in state or federal court; and
    c. Having reviewed chapters 5 and 23 through 27 of Oregon State Bar, *Oregon Civil Pleading and Litigation* (2020);
2. Meets the OPDC qualifications as a Criminal Attorney 1;
3. Has taken at least ten criminal or juvenile cases to trial or adjudication as lead counsel, or at least two civil cases to verdict;
4. Has co-counseled at least two *habeas corpus* cases or is acting under the supervision of an attorney certified as Habeas Attorney 1;
5. Has read and understands *Michigan v. Doran*, 439 U.S. 282 (1978);
6. Has read and understands the Uniform Criminal Extradition Act, ORS 133.743 to 133.857.
7. Has experience with and understanding of the Oregon Sentencing Guidelines.

Habeas Attorney 2

Case Assignment

In addition to appointments a Habeas Corpus Attorney 1 may accept, an attorney certified by OPDC as a Habeas Corpus Attorney 2 may accept appointments in *habeas corpus* proceedings challenging the conditions of the petitioner's confinement.

Minimum Qualifications

To be certified as a Habeas Attorney 2, an attorney must meet at least the following criteria:

1. **Meets the certification requirements for Habeas Attorney 1;**
2. **Demonstrated knowledge of the use of medical or psychiatric records in litigation by:**
    a. **Having litigated four contested hearings or depositions in which the attorney examined expert witnesses;**
    b. **Represented clients in ten cases in which they consulted with a client about medical or psychiatric records;**
    c. **Represented clients in five cases in which the client had diminished capacity, or the question of diminished capacity was evaluated by a psychologist, psychiatrist, or neurologist; and**
3. **Can demonstrate their use of investigators in cases.**

Process for Attorney Qualification

Attorneys seeking qualification pursuant to these Standards must apply on the OPDC website and upload any appropriate attachments.

1. **OPDC will review the qualification materials and may request additional supporting documentation. Meeting minimum qualifications does not create a right to approval for appointment in any case type.**
2. **OPDC will notify the attorney of the case types for which the attorney has been approved for qualification or the reason for its decision not to approve the attorney for qualification.**
3. **In each case type for which an attorney has sought certification, OPDC may:**
    a. **Approve;**
    b. **Deny; or**
    c. **Provisionally Qualify.**
4. **Provisional qualification is reserved for circumstances in which the attorney meets most but not all qualification standards and the attorney:**
    a. **Anticipates meeting the remaining standards imminently, and**
    b. **Provides a justification for requesting provisional qualification in anticipation of completing the remaining standards. Failure to meet the remaining standards within a reasonable period following provisional approval will result in loss of the provisional qualification.**
5. ***Requests for Reconsideration*. An attorney who is not approved for appointment in a requested case type may request reconsideration by submitting to OPDC, within 21 calendar days of the notice of denial of qualification, additional information including supporting documents, if any, that the attorney believes demonstrates that the attorney meets the qualification criteria.**
6. **All attorneys providing OPDC funded representation must notify OPDC if they elect to change: their name, their place or name of business, their contact *information, or the nature of their practice.***

7. ***OPDC may review and revise an attorney's qualifications at any time based on information* received that implicates the attorney's ability to provide adequate assistance to their clients.**
8. **OPDC may employ advisory panels to advise on the qualifications of attorneys.**

9. **OPDC may offer certification courses to satisfy one or more requirement for qualification at various levels.**
10. **Attorneys accepting cases for which they are not qualified will not be compensated for work on those cases.**

Qualification Periods

Attorneys currently approved to represent clients under OPDS's prior Qualification Standards may continue to represent clients under the 2025 standards until their next CLE reporting year, at which time they will recertify. The conversion chart shows how an attorney's qualification under the 2019 standards converts under the 2025 standards. The 2025 qualifications will go into effect six months after adoption.

2019 Classification	2025 Equivalent
Misdemeanor Cases/Contempt	Criminal Attorney 1
Lesser Felony Cases	Criminal Attorney 2
Major Felony Cases	Criminal Attorney 3
Murder/JLaw Cases	Criminal Attorney 4
Capital Murder Cases	Criminal Attorney 5
Civil Commitment Proceedings	Civil Commitment Attorney 1 & 2
Juvenile Delinquency - Misdemeanor	Delinquency Attorney 1
Juvenile Delinquency - Lesser Felony	Delinquency Attorney 2
Juvenile Delinquency - Major Felony	Delinquency Attorney 3
Juvenile Delinquency - Murder	Delinquency Attorney 4
Juvenile Dependency	Dependency Attorney 1
Termination of Parental Rights	Dependency Attorney 2
Post-Conviction Relief (Non-Murder)	PCR Attorney 1
Post-Conviction Relief (Murder)	PCR Attorney 2
Post-Conviction Relief (Capital Murder)	PCR Attorney 3
Habeas Corpus Proceedings	Habeas Corpus Attorney 1 & 2
PSRB Proceedings (not specifically categorized)	PSRB Attorney

Attorneys will requalify every three years, to coincide with the date of their triennial Continuing Legal Education (CLE) certification with the Oregon State Bar.

- ***For example, an attorney whose CLE certifications are due in December 2025 will requalify with OPDC at that time. An attorney who submitted their CLE certification in January 2025 will requalify with OPDC by January 2028.***

An attorney who is requalified or newly qualified by OPDC within one year of their triennial CLE certification date need not requalify until the following CLE certification date.

- ***For example, an attorney who submits and is approved to have OPDC increase their certification from Criminal Attorney 1 to Criminal Attorney 2 on January 1, 2026, and who has a CLE certification date of November 1, 2026, need not requalify until November 1, 2029.***

OPDC may suspend or terminate contracts or modify qualification approvals if attorneys fail to requalify timely.

Equivalent Experience Qualification

1. **An attorney who has practiced in a relevant area of law in a state other than Oregon or in a comparable practice area and who wishes to be certified in an area or practice level but does not meet the requirements set forth in the Attorney Qualification Standards due to differences in jurisdictional practices or types of experience must submit an application, in writing, explaining why their experience should satisfy the requirements of zealous and competent advocacy for the relevant practice area. The application should include, at minimum:**

    a. **A curriculum vitae;**

    b. **A list of at least five representative cases, including dispositions and a brief explanation of the work the applicant performed on each;**

    c. **Five representative pleadings or portions of pleadings no longer than ten pages each;**

    d. **An explanation of what parts of the relevant Qualification Standards the applicant meets directly or indirectly based on their equivalent work;**

    e. **An explanation of what parts of the relevant Qualification Standards the applicant cannot meet and why the applicant believes their experience mitigates that shortcoming;**

    f. **An explanation of what measures the applicant has taken to familiarize themselves with relevant Oregon practice and procedure and, if available, names of practitioners whom they are able to seek additional guidance from going forward;**

    g. **Relevant training programs attended or taught and/or certifications obtained; and**

    h. **Three letters of support from attorney defense practitioners or judges, who are familiar with the applicant's abilities and attest to the applicant's training, experience, and ability to provide competent representation in the relevant practice area and level.**

2. **In determining whether an applicant will be qualified, OPDC will consider, *inter alia*:**
    a. **The length of time the applicant has practiced;**

    b. **The amount of direct client representation that prior practice entailed;**

c. **The percentage of time the applicant has devoted to the relevant practice area; and**

d. **Any indicia of competence in the relevant practice area. Time spent in a role supervising other attorneys in the relevant practice area will be considered favorably as evidence of competence.**

3. **After reviewing the Equivalent Experience Application, OPDC will notify the applicant of the results. After an initial qualification, the applicant can apply for increased qualifications through the Attorney Qualification Standards process.**

Practicing Under Supervision

OPDC may, in its discretion, allow an attorney who does not otherwise meet the Attorney Qualification Standards to practice "under supervision." An attorney, law student appearing under the student appearance rule, or Supervised Practice Portfolio Examinee, practicing "under supervision" working under an approved supervision plan may accept cases one level above their independent qualification (or at Level 1, if not independently qualified), except no attorney may accept appointment under supervision at Criminal Attorney Levels 4 or 5, or Delinquency Attorney Level 4. Prior to approving appointments under supervision, OPDC must approve both the supervision plan and the supervisor qualifications.

1. **Approved Supervision Plans must have:**

   a. **A procedure for regular check-ins with each attorney being supervised and the frequency of these check-ins;**

   b. **A procedure for random observation of individual attorneys in court. Newer attorneys and attorneys who have just increased 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 type of case, type of hearing observed, whether testimony was taken during the hearing, etc.;**

   c. **A procedure for 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;**

   d. **A procedure for the supervising attorney to document concerns raised about individual attorneys, including a procedure for addressing complaints or concerns from a client, judge, or opposing counsel;**

   e. **A procedure for monitoring case assignments will be monitored; and**

   f. **An annual performance evaluation for each attorney.**

2. **Qualified Supervisors must:**

a. **Be qualified by OPDC and have practiced at the relevant practice level for at least one year with substantial practice in the relevant practice area, and**

b. **Have taken an OPDC Supervisor Training Course, when available; and**

c. **Be willing to comply with OPDC Supervision Policies.**
Organizations seeking supervisory approval should submit Supervision Plans and Supervisor Qualification applications through the OPDC website.

Duration

Supervision authorization will expire after one year. At the expiration of the supervision authorization, the attorney may apply for independent qualification or apply to renew authorization to practice under supervision.