

**Members:**

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

**Nonvoting Members:**

Brook Reinhard  
Jasmine Wright  
Rep. Paul Evans  
Sen. Floyd Prozanski

**Executive Director:**

Jessica Kampfe

**Oregon Public Defense Commission Workgroup**

Meeting will occur virtually  
Thursday, March 6, 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 for the duration of this meeting. Public comment will not be allowed during this meeting.*

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## AGENDA

Approx. Time	Item	Lead(s)
5:00-5:05	Welcome	Chair Nash
5:05-6:30	<b>Discussion:</b> Proposed Contract Policy Changes and Proposed Legislation Affecting OPDC	Jessica Kampfe
6:30 (Approximately)	<b>***Adjourn***</b>	

\*To join the Zoom meeting, click this link: <https://zoom.us/j/96948838602>. 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](mailto: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: **April 10, 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>

POLICY NAME: ATTORNEY WARRANT REMOVAL POLICY	NUMBER: 404.
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY: OREGON PUBLIC DEFENSE COMMISSION	APPROVAL DATE:

**PURPOSE:** To adjust case weighting for attorneys who withdraw from a case prior to the resolution of the case.

**AUTHORITY:** ORS 135.050 (6) and ORS 151.216

**APPLICABILITY:** This policy applies to judicial orders removing an attorney from a case in warrant status where no party has requested that the attorney withdraw.

**DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Bench Warrant:** A warrant issued by a court after a defendant has failed to appear for a previously scheduled court hearing.

**POLICY:** A Court may exercise its power to remove an attorney from a case where the attorney was appointed prior to the conclusion of the case only if the attorney requests to be removed for ethical reasons, the attorney is being substituted for another attorney, or the following conditions are met:

- At least 90 days have passed since the currently outstanding warrant was issued by the court.
- The state has filed with the court a declaration or affidavit attesting to attempts to serve the warrant prior to the date of removal, that the state has verified the Defendant is not in custody in another jurisdiction or if the Defendant is in custody that they have notified the defense attorney of the Defendant's whereabouts.
- The court has provided notice to the defendant of the court's intention to remove their attorney, either at the time of appointment or by mailing notice to the defendant last known address.
- The court has given notice of its intention to remove the attorney to the attorney for the defendant and allowed time for the attorney to file an objection.

All removals of an attorney under this policy must be done by order of the court, recorded in the official court record.

If a defendant returns to court after the attorney is removed under this policy but within the same OPDC contract cycle the attorney should be reappointed to the case.

DRAFT

POLICY NAME: CO-COUNSEL POLICY	NUMBER: 404.
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY: OREGON PUBLIC DEFENSE COMMISSION	APPROVAL DATE:

**PURPOSE:** The Oregon Public Defense Commission (OPDC) understands that certain circumstances may require or justify the addition of a second or subsequent attorney to a case. Consistent with its efforts to be transparent and consistent in decision making this policy will set out the requirements for cases to be considered for co-counsel as well as rules which apply to co-counsel case reporting and compensation.

**AUTHORITY:** ORS 151.216

**APPLICABILITY:** This policy applies to all cases where an attorney is requesting additional attorneys to aid in representation.

#### **DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Public Defense Attorney:** Attorney appointed to perform legal services for financially eligible individuals as required by Oregon Revised Statute, the Oregon Constitution, or the United States Constitution.

**Lead Counsel:** The attorney who retains ultimate decision-making authority on all attorney issues in the case (note that the client retains ultimate authority in many case related decisions). In cases where multiple attorneys are assigned the attorneys are responsible for designating a lead counsel for the case. Lead counsel must meet OPDC qualification standards for the case type.

**Co-Counsel:** A second attorney who either meets the qualification level for the type of case, exceeds it, or is one level of qualification lower than the case requires. Co-counsel may handle any portion of the case work up to an even share with lead counsel.

**Associate Counsel:** An attorney assigned purely to assist with legal research or case preparation. Associate/Research counsel does not serve as an expert, is not appointed to the case and does not provide direct client representation. Associate/Research counsel may be approved in cases where it's reasonable and necessary, i.e., murder,

juvenile waiver, cases subject to ORS 137.719 and 137.725, Jessica's Law cases or any case in which OPDC deems an Associate/Research attorney is reasonable and necessary.

**POLICY:** Lead Counsel is responsible for locating co-counsel for their cases and applying to OPDC for approval of co-counsel where approval is discretionary or notifying OPDC of who will co-counsel the case where co-counsel is mandatory.

Cases for which OPDC will consider funding co-counsel are as follows:

**1. Cases for which co-counsel is mandatory**

In all cases charging any degree of Murder, cases charged under Jessica's Law, cases subject to a life sentence under ORS 137.719 or 137.725, and in which the State moves the court to waive juvenile court jurisdiction pursuant to ORS 419C.349 or ORS 419C.352, OPDC requires that there must be at least two attorneys sharing responsibility for the case as Lead and Co-Counsel. Counsel need not seek permission from OPDC prior to a second attorney seeking appointment from the court. A third or subsequent attorney may be approved on these cases at OPDC's discretion as described below.

**2. All other cases**

In all cases other than those set out in section 1 of this policy, OPDC may approve a second or subsequent attorney upon the request of the case's lead counsel. In order to request co-counsel, the lead attorney should submit the request in the method prescribed by OPDC. Once submitted, the OPDC will evaluate the request and either approve or deny it based on the following factors:

- a. Severity of charges. Cases where the charges are particularly severe or where the penalty for conviction is high are inherently more difficult than less severe cases and may require additional attorney resources.
- b. Complicated or novel issues of law or fact. Cases with these issues require additional investments of time from attorneys to research and develop arguments and may require a second attorney to collaborate on generating defenses, creating motions, or working with the client.
- c. The need for attorneys to gain experience. To be able to competently handle more serious case types, newer attorneys can work with more seasoned attorneys as co-counsel. OPDC qualification guidelines require that an attorney have co-counsel experience to qualify for certain advanced case types and the opportunity to advance in the career of public defense is important to the retention of dedicated attorneys. Cases where an attorney needs experience may be considered for additional attorneys regardless of the presence of other factors in this policy. Attorneys requesting an additional counsel under this section may be required to provide a supervision plans to OPDC. If the contractor is receiving supervision funding the supervision plan provided under that policy may be sufficient.
- d. The need for mentorship attorneys. There are times when an attorney is in need of mentorship from a more experienced attorney regardless of the case type or

complexity. Such mentorship may be a result of the attorney's conduct, a complaint regarding their work, or at the direction of OPDC.

- e. Local Counsel. OPDC may approve the assignment of a second attorney when lead counsel takes a case outside of their home jurisdiction.
- f. Other. OPDC retains discretion to appoint second or subsequent attorneys as required to assure constitutional representation on all cases.

To apply for OPDC approval for co-counsel a lead attorney should submit the request in the manner proscribed by OPDC. To be considered requests must include at least the following information:

- Case identifying information such as a case number and client's name.
- The name of the lead attorney.
- The name and OPDC certification level of requested co-counsel.
- For discretionary co-counsel requests lead counsel should also include a justification for the appointment of co-counsel.
- If the lead attorney is requesting to add a third or subsequent attorney who is not certified under OPDC's guidelines for the case type being requested, a justification for the addition of that attorney should be included along with any proposed supervision plans.

To apply for associate counsel:

- If the associate counsel is accepting appointment under contract, Lead Counsel should follow the same provisions for requesting co-counsel above and specify associate counsel.
- If the associate counsel is accepting the case hourly, Lead Counsel should apply through the Pre-Authorized Expenses policy.

Unless otherwise agreed to by the attorneys and OPDC, all attorneys for a client should share a funding model and not mix between contract and attorneys under the Assigned Counsel Program. Once OPDC has approved co-counsel for a case, lead counsel or co-counsel will need to file a motion for and order to appoint co-counsel with the appropriate court. The court retains final discretion on the appointment of co-counsel. Co-counsel must be appointed by the court in order to receive funding from OPDC. Associate/research counsel need not be appointed to receive funding.

POLICY NAME: CONTRACT COMPLIANCE POLICY	NUMBER: 404.
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY:	APPROVAL DATE:

**PURPOSE:** To provide notice and guidance regarding potential breach of contract terms and requirements.

**AUTHORITY:** ORS 151.216

**APPLICABILITY:** This policy applies to all contracts for public defense services.

**DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Contractor:** Any entity that has a contract with OPDC for legal services.

**Oregon State Bar (OSB) Performance Standards:** The Specific Standards for Representation for the applicable case type on the OSB website.

**POLICY:** To ensure compliance with contracts, OPDC sets out the following contract compliance procedures.

- Contractor agrees to accept appointments to represent eligible clients and, if applicable, to assign cases to attorneys performing legal services in accordance with their contract with OPDC unless doing so would violate the OSB Rules of Professional Conduct or the contract management provisions described below.
- Contractor shall monitor case assignments for each attorney performing services under this contract to ensure the number of case assignments in a month, or open cases under PCRPP for each attorney are within 15% of the monthly prorated MAC or the PCRPP workload limit associated with that attorney's contracted FTE.
- Contractor agrees to ensure that all attorneys performing services under this contract are qualified under OPDC's attorney qualifications and are following the

OSB Attorney Performance Standards for the case to which they are appointed. Contractors are responsible for ensuring that all attorneys working under the contract understand and abide by all of the contract requirements. Attorneys will not be compensated for work on any case for which they are not qualified by OPDC without prior written approval by OPDC. Attorney should submit the request in the manner proscribed by OPDC prior to commencing work on the case.

- If Contractors or individual attorneys cannot fulfill their performance standards obligations for new clients, beyond their current existing clients for ethical reasons, they must submit a form designated by OPDC for that purpose. OPDC will work with Contractor or attorneys to determine the underlying cause for the ethical shutoff as well as establish a plan as described below to resolve the ethical barriers. OPDC may not decrease a Contractor's attorney FTE, the financial value attached to the contract, or any other form of compensation if the Contractor has temporarily shut off case assignments for ethical reasons.
- Contractor shall ensure that 1.0 FTE attorneys funded pursuant to this contract do not engage in any other paid legal work unless agreed to by OPDC in writing and only if additional paid work will not interfere with their work on appointed cases.

## **Enforcement**

If OPDC reasonably believes that any attorney performing services under this contract has not accepted appointments, maintained an open caseload (PCRCP only) or has not met performance standards for two consecutive months, OPDC will engage Contractor in the following manner:

1. OPDC will set a meeting with Contractor to discuss the circumstances leading to the lack of ability to meet contract and/or performance expectations and to determine:
  - a. Whether changing filing trends within the jurisdiction resulted in the attorney's low case number;
  - b. Whether the low case numbers or lack of meeting performance requirements were caused by an attorney's ethical responsibility to current clients and the attorney has filed the required ethical shut off form; or
  - c. Whether other performance-related factors have resulted in the attorney or entity not being able to meet their caseload or performance expectations.
2. OPDC and Contractor will develop, if necessary, a plan to bring Contractor and any attorneys performing services under this contract back within the contract and/or performance expectations. The initial plan will last for 90 days, subject to extension by agreement of OPDC and Contractor, and may include:
  - a. Requirements that Contractor accept or refrain from accepting cases, unless doing so would cause attorney/s to violate the Rules of Professional Conduct;



- b. Requirements that Contractor accept cases as needed from neighboring jurisdictions;
  - c. Requirements that Contractor or attorneys successfully complete training program(s) designed to assist with factors that were identified as causes for the Contractor or attorneys' inability to meet caseload or performance expectations; and/or
  - d. Requiring Contractor or attorneys to participate in a mentoring program approved by OPDC.
3. At the end of the plan period, OPDC will determine, at its discretion, whether further corrective actions are necessary and likely to result in necessary improvement.
4. If additional corrective actions are necessary, OPDC may, at its discretion implement any or all of the following actions:
- a. Withhold an incremented 1% of total contract funds increasing every 90 days up to 5% or until such time as the problems are ameliorated;
  - b. Reduce the FTE in the contract;
  - c. Reduce the qualification level of the attorney/s;
  - d. Require more intensive mentoring/oversight until such time as the problems are resolved; and/or
  - e. Termination of the contract.

## **Appeals**

An appeal by a Contractor for any contract enforcement decision by OPDC shall be made pursuant to the OPDC Appeal Process Policy.

POLICY NAME: PARTIAL WEIGHTING FOR EARLY WITHDRAW FROM CASES	NUMBER:
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY: OREGON PUBLIC DEFENSE COMMISSION	APPROVAL DATE:

**PURPOSE:** The Oregon Public Defense Commission (OPDC) understands that certain circumstances may require an attorney to withdraw from a case prior to the resolution of the case. In such cases OPDC will reduce the total weight applied to those cases pursuant to this policy.

**AUTHORITY:** ORS 151.216

**APPLICABILITY:** This policy applies to all attorneys under a criminal contract with OPDC which includes case weighting provisions. This policy applies only to criminal cases.

**DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Case Closure:** Contractor shall close a client's criminal case when the final judgment or order has been entered into the court register, and the Contractor has met all contractual obligations or a judge has signed an order removing the attorney from the case, or a bench warrant for a client's failure to appear has been active for 90 days.

**Withdrawal as Counsel:** When an attorney requests the court remove them from a case that would not meet other conditions of case closure.

**Attorney Removal:** When an attorney is removed from a case under OPDC's Attorney Warrant Removal Policy after a bench warrant is outstanding for a client for over 90 days.

**POLICY:** Case weighting in the OPDC contracts is based on an attorney completing all necessary tasks for a criminal client's case prior to the case's closing. These tasks include, but are not limited to, review of discovery, investigation of each charge, court appearances, necessary client communication, and ultimate resolution of the case. Withdrawal prior to the completion of those events will result in partial weighting of that case by OPDC. Partial weighting for cases will be according to the following:

- **Criminal misdemeanors:** within 24 hours from case assignment the attorney will receive no weight for the case, after 24 hours but no more than 15 days from appointment shall receive 50% of the case weighting, after 15 days but prior to 40 days 75% of the case weighting, after 40 days attorneys will receive 90% of the case weighting.
- **Criminal felonies other than murder:** within 24 hours from case assignment the attorney will receive no weight for the case, after 24 hours but no more than 60 days from appointment shall receive 50% of the case weighting, after 60 days but prior to 120 days 75% of the case weighting, after 120 days attorneys will receive 90% of the case weighting.
- **Criminal murder:** within 24 hours from case assignment the attorney will receive no weight for the case, after 24 hours but no more than 180 days from appointment shall receive 50% of the case weighting, after 180 days but prior to 365 days 75% of the case weighting, after 365 days attorneys will receive 90% of the case weighting.

If an attorney is removed from a case according to the Attorney Warrant Removal Policy, the date of withdrawal for the purpose of calculating the length of time an attorney was appointed to the case is the date that the warrant was issued. If the same attorney is later reappointed to the same case, they will receive the balance of the weight for that case.

Nothing in this policy should be construed to limit an attorney's duties of representation to any of their clients. OPDC recognizes that all cases are unique and that not all cases may be completed within the timelines outlined above. OPDC is committed to attorneys being compensated for their work on cases and attorneys who feel that the amount of work they performed on a case is not reflected in this policy may request extraordinary case weighting as prescribed by OPDC policies.



POLICY NAME: PARTIAL WEIGHTING FOR SECOND AND SUBSEQUENT ATTORNEYS	NUMBER:
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY: OREGON PUBLIC DEFENSE COMMISSION	APPROVAL DATE:

**PURPOSE:** The Oregon Public Defense Commission (OPDC) understands that certain circumstances may require an attorney to withdraw from a case prior to the resolution of the case and that despite the withdrawal of the attorney a judge may appoint another attorney to represent the same client on the same case. The subsequent attorney is presumed to benefit from work completed by prior attorneys and will not require the full amount of time cases normally take from start to finish. This policy adjusts the weight of subsequent attorneys accordingly.

**AUTHORITY:** ORS 151.216

**APPLICABILITY:** This policy applies to all attorneys under a contract with OPDC which includes case weighting provisions. This policy applies only to criminal cases. Murder cases or cases charged under Jessica's Law are exempt from partial weighting for second and subsequent attorneys.

#### **DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Case Closure:** Contractor shall close a client's case when: The final judgment or order has been entered into the court register, and the Contractor has met all contractual obligations, a judge has signed an order removing the attorney from the case, or a bench warrant for a client's failure to appear has been active for 90 days.

**Withdrawal as Counsel:** When an attorney requests the court remove them from a case that would not meet other conditions of case closure.

**POLICY:** When reassigning cases because of the withdrawal of an attorney, or if an attorney is otherwise unavailable to continue representation, the case should be reassigned to a different attorney within the same firm. If there are no available attorneys within the same firm, then within the same contract entity. If there are no attorneys available within the same contract entity, then to other entities within the same judicial district.

After a change of attorneys within the same firm the subsequently appointed attorney, if appointed under contract, will receive 50% of the base weight for the case. Attorneys may request additional case weight through the process designated by OPDC.

Nothing in this policy should be construed to limit an attorney's duties of representation to any of their clients. OPDC is committed to attorneys providing highly skilled and client-focused representation to all their clients.

DRAFT

POLICY NAME: REDUCED CASELOAD PROGRAM FOR FIRST YEAR ATTORNEYS POLICY - PCRCP	NUMBER: 404.
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY:	APPROVAL DATE:

**PURPOSE:** Oregon Public Defense Commission (OPDC) understands that new attorneys cannot handle a full caseload due to lack of experience and knowledge. This policy will provide those attorneys a reduced caseload to allow for appropriate training and supervision. This policy reduces the open caseload for attorneys in the Parent Child Representation Program.

**AUTHORITY:** ORS 151.216

**APPLICABILITY:** This policy applies to all attorneys in their first year of practice after licensure by the Oregon State Bar (OSB) who are practicing pursuant to a contract with the Parent Child Representation Program.

**DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Assigned counsel program:** OPDC hourly contract program (currently being developed).

**Criminal attorney 1:** Attorneys who are qualified by OPDC at Criminal Attorney 1 pursuant to the OPDC Attorney Qualification Standards.

**Delinquency attorney 1:** Attorneys who are qualified by OPDC at Delinquency Attorney 1 pursuant to the OPDC Attorney Qualification Standards.

**Dependency attorney 1:** Attorneys who are qualified by OPDC at Dependency Attorney 1 pursuant to the OPDC Attorney Qualification Standards.

**First year of licensure:** This begins when the attorney is sworn into OSB and continues for one year after that date.

**Reduced caseload program (RCP):** Program to reduce caseload for first year attorneys to allow for appropriate training and supervision.

**RCP beginning date:** Date is determined by OPDC in consultation with the contracting entity employing the new attorney. This is the date that the attorney is expected to start picking up cases.

**POLICY:** If an OPDC contractor hires an attorney in their first year of being licensed by OSB, and the contractor believes that the attorney qualifies to be in RCP, the contractor must notify OPDC and provide OPDC with information relating to the attorney's education and legal employment experience. Upon receiving that information, OPDC will determine whether the attorney qualifies for RCP. If the attorney qualifies for RCP, OPDC will notify the contract administrator and determine RCP beginning date.

To qualify for RCP:

- a. The attorney must be in their first year of licensure by OSB or have less than one year of experience of direct representation of public defense clients as a licensed attorney if attorney is or was licensed in another state;
- b. Be part of a mentoring or supervision program that has been approved by OPDC; and
- c. Be qualified (directly or with supervision) by OPDC as Delinquency Attorney 1, or Dependency Attorney 1.

Attorneys in RCP will have a monthly open caseload of 55 cases for the first year of employment.

Attorneys must remain qualified at their initial qualification level in order to be part of RCP. If an attorney in RCP is qualified by OPDC for Delinquency Attorney 2, or Dependency Attorney 2, they will be removed from RCP. Attorneys in RCP can co-counsel level 2 (Delinquency Attorney Level 2 or Dependency Attorney Level 2) cases without losing RCP status, if co-counseling is part of the OPDC-approved mentoring and supervision program.

If an attorney in RCP moves from one contracting entity to another contracting entity, their time on RCP continues based on their RCP beginning date. If the new entity has a PCRCP contract and has a OPDC approved mentoring or supervision program, the attorney will not lose RCP status. If the new entity has a MAC-based contract and has an OPDC approved mentoring or supervision program, OPDC and the new entity will coordinate to ensure the attorney retains their RCP status but under the standards for that contract type.

If an attorney in RCP leaves a contracting entity to become part of the Assigned Counsel Program, the attorney loses their RCP status.

If an attorney in RCP leaves a contracting entity to become part of the OPDC Trial Division, Trial Support & Development will work with OPDC Trial Division to ensure the attorney retains their RCP status but under the standards for criminal cases.

Contracting entities will not have a reduction in contract funding for attorneys participating in RCP.

POLICY NAME: REDUCED CASELOAD PROGRAM FOR FIRST YEAR ATTORNEYS POLICY	NUMBER: 404.
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY:	APPROVAL DATE:

**PURPOSE:** Oregon Public Defense Commission (OPDC) understands that new attorneys cannot handle a full caseload due to lack of experience and knowledge. This policy will provide those attorneys a ramp-up in caseload to allow for appropriate training and supervision. This will also resolve an issue of determining the Maximum Attorney Caseload (MAC) utilization analysis to accurately show the MAC utilization for first year attorneys.

**AUTHORITY:** ORS 151.216

**APPLICABILITY:** This policy applies to all attorneys in their first year of practice after licensure by the Oregon State Bar (OSB) who are practicing pursuant to a contract with a Maximum Attorney Caseload.

**DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Assigned counsel program:** OPDC hourly contract program (currently being developed).

**Criminal attorney 1:** Attorneys who are qualified by OPDC at Criminal Attorney 1 pursuant to the OPDC Attorney Qualification Standards.

**Delinquency attorney 1:** Attorneys who are qualified by OPDC at Delinquency Attorney 1 pursuant to the OPDC Attorney Qualification Standards.

**Dependency attorney 1:** Attorneys who are qualified by OPDC at Dependency Attorney 1 pursuant to the OPDC Attorney Qualification Standards.

**First year of licensure:** This begins when the attorney is sworn into the Bar and continues for one year after that date.



**Reduced caseload program (RCP):** Program to reduce caseload for first year attorneys to allow for appropriate training and supervision.

**RCP beginning date:** Date is determined by OPDC in consultation with the contracting entity employing new attorney. This is the date that the attorney is expected to start picking up cases.

**POLICY:** If an OPDC contractor hires an attorney in their first year of being licensed by OSB and the contractor believes that the attorney qualifies to be in RCP, the contractor must notify OPDC and provide OPDC with information relating to the attorney's education and legal employment experience. Upon receiving that information, OPDC will determine whether the attorney qualifies for RCP. If the attorney qualifies for RCP, OPDC will notify the contract administrator and determine RCP beginning date.

To qualify for RCP:

- a. The attorney must be in their first year of licensure by OSB or have less than one year of experience of direct representation of public defense clients as a licensed attorney if attorney is or was licensed in another state;
- b. Be part of a mentoring or supervision program that has been approved by OPDC; and
- c. Be qualified (directly or with supervision) by OPDC as Criminal Attorney 1, Delinquency Attorney 1, or Dependency Attorney 1.

Attorneys in RCP will have a caseload equivalent of 180 misdemeanor cases for the first year of employment. Attorneys in RCP will not be required to have monthly prorated MAC limits.

Attorneys must remain qualified at their initial qualification level in order to be part of RCP. If an attorney in RCP is qualified by OPDC as for Criminal Attorney 2, Delinquency Attorney 2, or Dependency Attorney 2, they will be removed from RCP. Attorneys in RCP can co-counsel level 2 cases without losing RCP status, if co-counseling is part of the OPDC-approved mentoring and supervision program. If an attorney in RCP moves from one contracting entity to another contracting entity, their time in RCP continues based on their RCP beginning date. The new entity must be under a qualifying contract and have a OPDC approved mentoring or supervision program or the attorney will lose RCP status.

If an attorney in RCP leaves a contracting entity to become part of the Assigned Counsel Program, the attorney loses their RCP status.

If an attorney in RCP leaves a contracting entity to become part of the OPDC Trial Division, their time in RCP continues based on RCP beginning date.

Contracting entities will not have a reduction in contract funding for attorneys participating in RCP.

POLICY NAME: VACANCY FUNDING POLICY	NUMBER: 404.
DIVISION: TRIAL SUPPORT & DEVELOPMENT	EFFECTIVE DATE:
RESPONSIBLE SECTION:	
APPROVED BY:	APPROVAL DATE:

**PURPOSE:** To establish criteria and notice requirements related to funding of an unfilled contracted attorney position.

**AUTHORITY:** ORS 151.216 and ORS 151.219

**APPLICABILITY:** This policy applies to all contracts for public defense services. It is applicable when an attorney is leaving a contract and the contract is continuing with OPDC.

#### **DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Representational services:** Attorney services, appropriate support staff services, investigation, appropriate sentencing and disposition advocacy, 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 OPDC is to pay Contractor do not include fees and expenses authorized as preauthorized expenses or case support services as defined by OPDC.

**Vacancy:** When an attorney, investigator, case manager, or paralegal discontinues providing representational services under a contract with OPDC for public defense services.

**Full time equivalent (FTE) attorney:** An FTE Attorney is an attorney under contract with OPDC to provide representational services.

**POLICY:** Sixty (60) days of partial funding will be provided for Attorney Vacancies. The purpose in providing 60 days of continued partial funding for an attorney vacancy is

to allow the contractor flexibility and support when an attorney leaves a contract while the contractor works to replace the previous attorney. In order to receive partial funding for a vacancy, Contractor must intend to, and be actively working toward, filling the vacant position.

Contractor shall notify OPDC of an impending vacancy within 48 hours of becoming aware an OPDC funded attorney or non-attorney is planning to leave the contract.

In the event of an Attorney Vacancy, OPDC will fund 50% of the exiting attorney's monthly FTE compensation for a period of 60 days, beginning on the day after the previous employee's last day of employment.

In the event of a vacancy for non-Attorney FTE positions funded under contract, OPDC will cease to provide funding on the day after the previous employee's last day of employment. Contractors may submit pre-authorized expense requests to cover necessary work during any resulting recruitment period to replace the departed employee. Contractor will notify OPDC of its intent to attempt to replace the departed employee within two weeks of beginning of the vacancy. If Contractor intends to replace the departed employee, Contractor will retain the right to fill the position for up to 60 days after the previous employee's last of employment.

Timelines herein for filling contract attorney and non-attorney vacancies, but not associated funding, can be extended upon request in writing at OPDC's discretion.