

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.07 – RULES GOVERNING STANDARDS FOR DEFENDING ATTORNEYS THAT UTILIZE IDAHO’S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM

DOCKET NO. 61-0107-1701

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 19-850(1)(a)(vii) Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 2, 2017.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The amendment to this rule will create standards for defending attorneys who represent indigent defendants in capital cases and standards related to investigation and the use of experts. Standards related to capital counsel will be derived from Idaho’s Principles of an Indigent Defense Delivery System (IPIDDS) principle number 5, Idaho Code 19-850(1)(a)(vii)(5), and take into account ABA’s Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, revised edition, February 2003. Defending attorneys will be required to conform to such performance standards if handling capital cases. Standards related to investigation and the use of experts are supported by IPIDDS as a whole, Idaho Code 19-850(1)(a). All defending attorneys will be required to conform to investigation standards.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text, contact Kelly Jennings at (208) 332-1735. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the State Public Defense Commission web site at the following web address: <https://pdc.idaho.gov/>.

DATED this 1st day of March, 2017.

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