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**IDAPA 61
TITLE 01
CHAPTER 07**

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

000. LEGAL AUTHORITY.

Section 19-850 (1)(a)(vii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules establishing the standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, Idaho’s Principles of an Indigent Defense Delivery System (IPIDDS) as referenced in the same section. (5-1-17)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 61, Title 01, Chapter 07, “Rules Governing Standards for Defending Attorneys That Utilize Idaho’s Principles of an Indigent Defense Delivery System.” (5-1-17)

02. Scope. These rules establish the standards and guidelines for Indigent Defense Providers and defending attorneys practicing in the State of Idaho. As section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these rules also apply to the delivery of such services by the county, section 19-862A(9), Idaho Code. (5-1-17)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the PDC’s office. (5-1-17)

003. ADMINISTRATIVE APPEALS.

The PDC’s determination to set standards for defending attorneys is an exercise of its duty to responsibly and prudently implement a system to improve the delivery of trial-level indigent defense services. Nevertheless, unless otherwise stated, determinations made by the PDC are subject to administrative appeal under IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (5-1-17)

004. INCORPORATION BY REFERENCE.

IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions” is incorporated into this Chapter. (5-1-18)

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – TELEPHONE – INTERNET WEBSITE.

The location and mailing address of the PDC is 816 West Bannock Street, Suite 201, Boise, Idaho 83702. The offices are open daily from 9 a.m. to 5 p.m., except Saturday, Sunday, legal holidays, and when closed because staffing levels do not permit operation. The PDC’s telephone number is (208) 332-1735 and the facsimile number is (208) 364-6147. The PDC’s official website is: <https://pdc.idaho.gov>. (5-1-18)

006. PUBLIC RECORDS ACT COMPLIANCE.

This agency operates pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (5-1-17)

007 -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, “Rules Governing the Administration of Idaho’s Indigent Defense Delivery Systems – Rule Definitions” for definitions of the terms and abbreviations used in this Rule. (5-1-18)

011. – 019. (RESERVED)

020. PUBLIC DEFENSE ROSTERS.

01. Public Defense Roster Membership. The PDC will create and maintain a roster of all indigent defense providers, defending attorneys and non-attorney staff under their regular employ or supervision who are compliant with current Indigent Defense Standards. (5-1-18)

a. Maintenance of Public Defense Roster. The public defense roster will be updated in November of each year or whenever there is a change requiring an update. (5-1-18)

b. Public Defense Roster Contents. The public defense roster will include the name of each compliant defending attorney or non-attorney staff, their Idaho State Bar Number, and professional contact information, including email address, physical address, and telephone number. The roster will also indicate the county or counties within which the defending attorney provides indigent defense services. (5-1-18)

c. Secondary Roster. The PDC will create and maintain a secondary roster of all non-compliant indigent defense providers and defending attorneys who continue to provide indigent defense services. The contents of the secondary roster will be the same as the Public Defense Roster but will include information as to how the attorney is not meeting established standards and the date on which the attorney was removed from the Public Defense Roster for such non-compliance. (5-1-18)

d. Availability of Public Defense Roster. The rosters are available from the PDC office upon request. (5-1-18)

02. Application for Public Defense Roster Inclusion. Any attorney who is not employed by an indigent defense provider, who does not work under an existing indigent defense services contract, or who has become compliant after a period of non-compliance with Indigent Defense Standards, may apply to the PDC for inclusion on the Public Defense Roster. The application is available on the PDC website: <https://pdc.idaho.gov/forms>. (5-1-18)

a. Approval. Inclusion on the Public Defense Roster must be approved by the Executive Director. (5-1-17)

03. Membership Benefits. Membership on the public defense roster ensures access to PDC trainings and scholarships as outlined in IDAPA 61.01.01. (5-1-18)

04. Capital Counsel Roster Membership. The PDC will create and maintain a roster of all qualified capital defending attorneys. Inclusion on the capital counsel roster requires compliance with Standards for Defending Attorneys and current Indigent Defense Standards. (5-1-18)

a. Maintenance of Capital Counsel Roster. The capital counsel roster will be updated in November of each year, but may be updated more frequently in order to accurately reflect changes made throughout the year. (5-1-18)

b. Capital Counsel Roster Contents. The capital counsel roster will include the name of each qualified capital counsel who meets the Standards for Defending Attorneys: Capital Counsel Qualifications and Roster, their Idaho State Bar number and professional contact information including email address, physical address, and telephone number. (5-1-18)

05. Application for Capital Counsel Roster Inclusion. Any defending attorney who represents indigent defendants at public expense in defense of a capital crime shall apply for inclusion on the capital counsel roster. The application is available on the PDC website: <https://pdc.idaho.gov/forms>. (5-1-18)

a. Approval. The PDC must approve inclusion on the capital counsel roster. (5-1-18)

021. APPLICATION OF ESTABLISHED STANDARDS.

The established standards detailed in the incorporated document, “Standards for Defending Attorneys,” shall apply to all Indigent Defense Providers, defending attorneys, members of the Public Defense Roster, or any attorney who is assigned to represent at least one indigent defendant or is otherwise assigned to represent an adult or juvenile at

public expense in state courts in a fiscal year. Additionally, as Section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these standards also apply to the delivery of such services by the county, Section 19-862A(9), Idaho Code. (5-1-17)

022. – 999. (RESERVED)

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