

IDAPA 61 – IDAHO STATE PUBLIC DEFENSE COMMISSION

61.01.04 – Financial Assistance and Training Resources

Who does this rule apply to?

- Counties
- Defending Attorneys

What is the purpose of this rule?

This rule governs the following:

- Financial Assistance; and
- Training Resources

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Criminal Procedure -

Examination of Case and Discharge or Commitment of Accused:

- [19-850\(1\)\(a\)\(i\)-\(ii\), \(iv\), \(vi\)-\(v\), Idaho Code](#) – Powers and Duties of the State Public Defense Commission

Who do I contact for more information on this rule?

Public Defense Commission

Monday – Friday, 8:30 am – 5:00 pm

816 W. Bannock Street, Suite 201

Boise, Idaho 83702

Phone: (208) 332-1735

Fax: (208) 364-6147

Email: info@pdc.idaho.gov

Website: <https://pdc.idaho.gov>

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61.01.04 – FINANCIAL ASSISTANCE AND TRAINING RESOURCES

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 19-850(1)(a), Idaho Code. (11-17-21)

001. SCOPE.

This chapter contains requirements for public defense financial assistance and trainings offered through the PDC. (11-17-21)

002. – 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the definitions in IDAPA 61.01.01, “General Provisions and Definitions,” apply. (11-17-21)

011. – 019. (RESERVED)

020. FINANCIAL ASSISTANCE FOR COUNTIES TO PROVIDE PUBLIC DEFENSE IN COMPLIANCE WITH PUBLIC DEFENSE RULES AS PROVIDED IN SECTION 19-862A, IDAHO CODE.

01. Information for Application. Counties making application for Financial Assistance to continue complying with Public Defense Rules or cure any Deficiency must provide the following information: (11-17-21)

- a. Compliance Plan and Cost Analysis; (11-17-21)
- b. Compliance attestation required by Section 19-862A, Idaho Code; (11-17-21)
- c. Itemization of the County’s public defense: (11-17-21)
 - i. Expenditures for the prior county fiscal year; (11-17-21)
 - ii. Budget for the current county fiscal year; and (11-17-21)
 - iii. Anticipated budget for the upcoming county fiscal year; (11-17-21)
- d. Information from Defending Attorneys necessary for the Compliance Plan and application; and (11-17-21)
- e. Other information requested by PDC Staff or the Commission related to Public Defense Rules or Financial Assistance. (11-17-21)

02. Preference. Financial Assistance is subject to the availability of funds, with preference given: (11-17-21)

- a. First, to counties that need assistance to cure Deficiencies; (11-17-21)
- b. Second, to counties that need assistance to continue complying with Public Defense Rules; and (11-17-21)
- c. Third, to counties for other improvements to public defense. (11-17-21)

03. Financial Assistance for Workload. The Commission may award Financial Assistance for counties to pay for resources needed to meet the Workload rules in IDAPA 61.01.02, “Requirements and Procedures for Representing Indigent Persons,” Subsection 060.05 (“Workload Financial Assistance”) of these rules, which is subject to the following additional requirements: (11-17-21)

- a. Workload Financial Assistance can only be used for attorneys, staff, and other resources to comply with the Workload rules; (11-17-21)
- b. A county must specifically state in the Financial Assistance application all proposed designated uses for Workload Financial Assistance; (11-17-21)
- c. A county can only use Workload Financial Assistance for the designated uses approved by the

Commission; (11-17-21)

d. County responsibility for compliance with the maximum caseload standard is contingent upon the appropriation of state funds as provided in Section 19-862A, Idaho Code, at a level necessary to implement the numeric standard. If Caseload or Workload maximums are being exceeded and the county has timely requested and not received Financial Assistance to pay for resources needed to comply with Caseload or Workload rules, the county's failure to comply with Caseload or Workload rules will not be deemed a Deficiency. (11-17-21)

04. Financial Assistance for Joint Offices. The Commission may award additional Financial Assistance to counties that have established a joint office of public defender under Section 19-859(2), Idaho Code. (11-17-21)

05. Review. PDC Staff will review county applications for Financial Assistance. The Executive Director or appointed subcommittee of the Commission will make recommendations to the Commission. The Commission will determine the type, terms, and amount of Financial Assistance. (11-17-21)

06. Extraordinary Litigation Fund ("ELF"). The Executive Director or the Commission may award Financial Assistance for extraordinary litigation costs necessary for representation in a public defense case when such costs are a financial hardship on the county or when requesting from the court or the county may undermine an Indigent Person's case. (11-17-21)

a. Defending Attorney applicants may apply exclusively for prospective litigation costs and any request seeking reimbursement for services already rendered or expenses already paid will be rejected. (11-17-21)

b. Counties may request ELF Financial Assistance for reimbursement of extraordinary litigation costs paid and the application may only seek reimbursement for services rendered within the same state fiscal year. (11-17-21)

c. Information provided in support of an ELF application is confidential and exempt from the Public Records Act under Section 74-105(18)(b), Idaho Code. (11-17-21)

d. The Executive Director will approve or disapprove and will determine the amount of ELF assistance for costs other than attorney fees. The Commission will approve or disapprove and determine the amount of ELF assistance for attorney fees. (11-17-21)

07. Independence. Counties applying for Financial Assistance must limit prosecutor involvement in the Financial Assistance process if the involvement may jeopardize the independence of any Defending Attorney or undermine the delivery of public defense. (11-17-21)

021. – 029. (RESERVED)

030. TRAINING RESOURCES FOR ATTORNEYS ON THE PDC ROSTERS, AND THEIR STAFF WHO DIRECTLY SUPPORT PUBLIC DEFENSE PRACTICE.

01. PDC Training. The PDC may partner with outside organizations to present free or reduced cost training. (11-17-21)

02. Scholarships. The PDC may award training scholarships for approved non-PDC training. (11-17-21)

03. Non-Roster Attorneys. Attorneys not on a Roster and their staff are not eligible for PDC training or scholarships but may participate through a partner organization, if applicable. (11-17-21)

04. Preference and Conditions. Training and scholarship funds are limited and subject to the following: (11-17-21)

a. Preference is given to qualified applicants whose experience levels and compliance needs best fit

the particular training program, and who did not attend a free or discounted training within the previous year;
(11-17-21)

b. Approved applicants must immediately notify PDC Staff if they cannot attend or fully participate in any training; and (11-17-21)

c. Approved applicants who, without timely notifying PDC Staff, were absent from or failed to fully participate in a previous training, will not get preference and may not be eligible for training and scholarship benefits for the next twelve (12) months. (11-17-21)

031. – 999. (RESERVED)

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