

# IDAPA 61 – IDAHO STATE PUBLIC DEFENSE COMMISSION

## 61.01.01 – GENERAL PROVISIONS AND DEFINITIONS

DOCKET NO. 61-0101-2101

### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), 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), Idaho Code.

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking will be held as follows:

***TWO TWO-HOUR PUBLIC MEETINGS SET FOR  
PUBLIC PARTICIPATION VIA ZOOM (or other virtual platform)***

**TUESDAY, MAY 18, 2021**

**11:00 a.m. to 1:00 p.m. Pacific Time / 12:00 p.m. to 2:00 p.m. Mountain Time**

**3:00 p.m. to 5:00 p.m. Pacific Time / 4:00 p.m. to 6:00 p.m. Mountain Time**

Information about how to join the meeting will be emailed to counties and defending attorneys on the PDC roster and posted and made accessible on the agency website at <https://pdc.idaho.gov/>.

The meeting will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do any of the following:

- Present oral comments at the scheduled meetings; or
- Submit written comments to the undersigned via email or by mail to the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion 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 AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This negotiated rulemaking is focused on the definition of Vertical Representation in IDAPA 61.01.01.010.22, as a result of additional input from stakeholders. The text was prepared in collaboration with stakeholders and presented to the legislature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Kathleen Elliott at (208) 332-1735. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency's web site at the following web address: <https://pdc.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 31, 2021.

DATED this 8th day of April, 2021.

Kathleen J. Elliott, Executive Director  
Idaho State Public Defense Commission  
816 W. Bannock, Suite 201  
Boise, Idaho 83702  
Phone: (208) 332-1735  
Fax: (208) 364-6147  
Email: [Kathleen.Elliott@pdc.idaho.gov](mailto:Kathleen.Elliott@pdc.idaho.gov)

# IDAPA 61 – IDAHO STATE PUBLIC DEFENSE COMMISSION

## 61.01.02 – REQUIREMENTS AND PROCEDURES FOR REPRESENTING INDIGENT PERSONS

DOCKET NO. 61-0102-2101

### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), 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), Idaho Code.

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking will be held as follows:

***TWO TWO-HOUR PUBLIC MEETINGS SET FOR  
PUBLIC PARTICIPATION VIA ZOOM (or other virtual platform)***

**TUESDAY, MAY 18, 2021**

**11:00 a.m. to 1:00 p.m. Pacific Time / 12:00 p.m. to 2:00 p.m. Mountain Time**

**3:00 p.m. to 5:00 p.m. Pacific Time / 4:00 p.m. to 6:00 p.m. Mountain Time**

Information about how to join the meeting will be emailed to counties and defending attorneys on the PDC roster and posted and made accessible on the agency website at <https://pdc.idaho.gov/>.

The meeting will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking must do any of the following:

- Present oral comments at the scheduled meetings; or
- Submit written comments to the undersigned via email or by mail to the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion 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 AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This negotiated rulemaking is focused on the following subsections as a result of additional input from stakeholders. The text was prepared in collaboration with stakeholders and presented to the legislature:

- 61.01.02.020.01.a. – regarding engaging attorneys on the Defending Attorney Roster;
- 61.01.02.030.02.a. – regarding the selection recommendation committee;
- 61.01.02.030.02.b. – regarding the independence working group;
- 61.01.02.030.05 – regarding independent contract negotiation;
- 61.01.02.040.02 – regarding pay;
- 61.01.02.050.02.a.ii. – regarding court inquiry about workload;
- 61.01.02.050.04 – regarding eligibility for appointment (this replaces 61.01.02.070.03);
- 61.01.02.060.03 – regarding qualifications;
- 61.01.02.060.03.c. – regarding vertical representation;
- 61.01.02.060.03.i.iv. – regarding entry of a not guilty plea;

- 61.01.02.060.03.n.xii. – regarding abilities for a case;
- 61.01.02.060.04.a. – regarding competence in capital cases;
- 61.01.02.070.01.a. – regarding the defending attorney roster requirements;
- 61.01.02.070.01.a.iv. – regarding time for completion of CLEs;
- 61.01.02.070.01.b. – regarding continuing eligibility to remain on the roster and addressing deficiencies;
- 61.01.02.070.02.a.iii. – regarding capital defending attorney roster forms;
- 61.01.02.070.03 – regarding eligibility for appointment (the replacement for this is 61.01.02.050.04);
- 61.01.02.080.03.a. – regarding list of situations requiring emergency removal;
- 61.01.02.080.03.c. – regarding the appeal of emergency removal; and
- 61.01.02.090.01 – regarding option to request CLE preapproval.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Kathleen Elliott at (208) 332-1735. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency’s web site at the following web address: <https://pdc.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before May 31, 2021.

DATED this 8th day of April, 2021.

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