

## **Defending Attorney Qualifications Review: Conflicts of Interest Policy**

### **Policy No. 104**

**Adopted: June 15, 2021**

#### **Policy and Purpose**

This policy establishes a process for PDC Commissioners and Capital Counsel Review and Recommendation Committee members to abstain from certain discussions and decisions about Defending Attorneys with whom they have an employment, business, familial or other relationship that may create an actual or perceived conflict of interest. The purpose of this policy is to ensure all Defending Attorneys who desire to represent Indigent Persons at public expense are treated fairly and similarly when the Commission and/or Committee make decisions, recommendations or take other action about their qualifications.

#### **References**

Idaho Code 19-850(1)(a)

Idaho Code 74-105(18(a))

#### **Current rules (as of June 15, 2021)**

IDAPA 61.01.07

IDAPA 61.01.08

Standards for Defending Attorneys – Edition 2018

#### **New rules (Omnibus Temporary Rules effective July 1, 2021; Final rules pending Legislative adjournment)**

IDAPA 61.01.02

Pursuant to Idaho Code 19-850(1)(a) the PDC has adopted qualifications for Defending Attorneys representing Indigent Persons at public expense. The Public Defense Rules contain these qualifications, and in some cases these qualifications are evaluated by the Commission and Committee and the Commission and Committee decide, recommend or take other action regarding a Defending Attorney's qualifications. The information and discussion about a Defending Attorney's fitness to represent Indigent Persons is confidential and exempt from the Public Records Act. The Commission and Committee meet in executive session to review and discuss this information and then vote in open session. To make sure no Defending Attorney benefits from having a coworker, supervisor or person with whom they have a business relationship, familial relationship or other relationship that may create an actual or perceived conflict of interest, participating in the review and decision/recommendation process as a Commissioner or Committee member, any Commissioner and/or Committee member with such relationship with a Defending Attorney must disclose it to the Commission and/or Committee prior the executive session, which will be recorded in the minutes. Such disclosure will not identify any information exempt from disclosure. In the case of an actual conflict of interest, the Commissioner and/or Committee member will be excluded during the discussion and/or vote. In the case of a perceived conflict of interest, the Commission and/or Committee can determine in executive session whether the member should be excluded during the discussion and/or vote.

#### **Public Contribution**

This policy does not prohibit a Commissioner or Committee member from providing information about a Defending Attorney like any member of the public, and independent from their role as a Commissioner or

Committee member. For example, a Defending Attorney may include a Commissioner or Committee member as a reference in their Capital Defending Attorney Roster application materials; and a Commissioner or Committee member may provide information to the PDC's investigator or staff if they are identified as a reference or as someone who may have relevant information about a Defending Attorney.