

## Rule 16. Appointed Counsel

### 16.01 List of Appointed Counsel

The Court shall maintain a list of attorneys in private practice willing to accept appointments for cases in the Franklin County Municipal Court subject to conflict with the Public Defender's Office. Attorneys desiring to be placed on the appointment list shall apply in writing to the Support Services Coordinator at (614) 645-3803.

### 16.02 Standards for Appointed Counsel

In order to be approved and maintain placement on the court's list of attorneys willing to accept cases by appointment, an attorney must meet the following standards:

1. Licensed Ohio attorney in good standing.
2. Experience as lead counsel or co-counsel on three (3) or more criminal/traffic or delinquency cases.
3. Attend an orientation program approved by the judges of the Franklin County Municipal Court.
4. Maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Code of Professional Responsibility.

### 16.03 Orientation

Before an applicant is placed on the appointed counsel list the applicant must attend the orientation program and must observe proceedings in the Franklin County Municipal Court for six (6) hours with an experienced court appointed or other approved attorney. (See Panel of Mentors below.) The orientation requirements or a portion thereof may be waived upon application and approval of the Administrative Judge.

### 16.04 Duties

Upon appointment the Attorney shall perform basic duties as warranted by the facts of the case and shall act in a professional manner. Court appointed counsel shall personally represent the client for whom (s)he was appointed and shall not, absent an emergency, allow substitute counsel to represent the client. Appointed Counsel must be present at all dispositive hearings. Repeated failure to personally represent the client will result in removal from the appointed counsel list.

The Attorney shall have a working phone with a secretary and/or answering machine to be able to respond to calls from the court or clients. The Attorney shall inform the court promptly of a change of address or phone number.

### 16.05 CLE Requirements

Attorneys wishing to remain on the Court's appointment list shall complete the following requirements:

1. Attend six (6) hours of continuing legal education seminars approved by the court per reporting period. Excess hours may be carried over and applied to the following year.
2. No later than January 31 of the applicable reporting year established for the attorney pursuant to Rule X of the Supreme Court Rules for the Government of the Bar, an attorney wishing to remain on the Court's list shall complete an eligibility report certifying compliance with the requirements of this rule on a form provided by the Court. If an attorney does not certify compliance, (s)he will be removed from eligibility.

### 16.06 Duration of Appointment

The appointment shall continue through any probation revocation proceeding.

### 16.07 Removal and Reinstatement

Attorneys may be removed from the court appointment list with the approval of a majority of the judges of the Franklin County Municipal Court. The removal process may be initiated for the reasons set forth in Local Rule 16.09(3)(A-E). The removal request shall be in writing, initiated by a judge, setting forth the nature of the complaint. The complaint will be reviewed by the Court Appointed Counsel Committee who will determine whether just cause exists to find that a violation of the court rules has occurred. Upon such a finding, the committee chair will notify the attorney that a complaint has been filed against him or her that could result in removal from the court appointed list. The attorney will be given an opportunity to file a written response within 14 days which will be distributed at the Judge's Meeting considering the removal. After losing eligibility, an attorney seeking reinstatement of eligibility may be required to complete the orientation, seminar, and meeting requirements. For good cause, the Administrative Judge may remove an attorney from a specific case or from the appointment list.

### 16.08 Panel of Mentors

There will be a panel of experienced attorneys who have practiced in the Franklin County Municipal Court who will be available to provide orientation and who will mentor new applicants. All communications between an attorney mentor and his client in the presence of an attorney applicant participating in the orientation shall be deemed confidential and the attorney/client privilege shall apply.

#### 16.09 Appointment of Counsel Committee

The Administrative Judge shall appoint judges of the Court to serve on an Appointment of Counsel Committee which shall have the following responsibilities:

1. Determine the qualification of attorneys.
2. Obtain a mentor for an attorney who may need remedial assistance to continue to remain on the court appointment list.
3. Recommend removal of an attorney for non-compliance with these rules or other conduct which would impair the attorney's ability to serve the defendant and the court, including the following:
  - A. Criminal or serious traffic charges pending against the attorney
  - B. Substance abuse issues
  - C. Mental health issues
  - D. Professional incompetence
  - E. Excessive absences
4. Approve seminars that comply with the requirements of Rule 16.05.
5. Recommend future changes to this rule.

Nothing in this rule shall limit the authority of the Administrative Judge to appoint ad hoc non voting members to serve on the Appointment of Counsel Committee as deemed appropriate.

#### 16.10 Payment of Expenses

Appointed counsel seeking to be paid for expenses from the court shall correctly complete the forms prescribed in the Ohio Public Defender's STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT. The Court may withhold payment to appointed counsel until all necessary forms pertaining to the case are completed and correctly filed.

Prior Court approval is not required for expenses up to \$100. Prior approval by the Assigned Judge is required before incurring expenses between \$100 and \$2,500. Expenses in excess of \$2,500 require prior approval both by the Assigned Judge and the Administrative Judge. Attorneys will not be reimbursed for travel time, mileage and parking. No allowance will be approved for fixed office overhead. Attorneys seeking reimbursement for expenses must provide receipts for all expenses in excess of \$1.

Prior to approving any appointed counsel request to incur expenses, the Assigned Judge or the Administrative Judge shall consider the value of the service to the defendant's proper representation at trial and the availability of an alternative which would fulfill the same function as the service sought.