

## Rule 16. Appointed Counsel

### 16.01 List of Appointed Counsel

The Court shall maintain a list of attorneys in private practice who are 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 list of Appointed Counsel shall apply in writing to the Support Services Coordinator. Applications may be found on the Franklin County Municipal Court Clerk's website, or in the Support Services Coordinator's office. Open enrollment for the list occurs in July and December.

### 16.02 Standards for Appointed Counsel

- (A) In order to be approved for inclusion on the Court's list of Appointed Counsel, an attorney must meet the following standards:
- (1) Be a licensed Ohio attorney in good standing.
  - (2) Have 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) Within six (6) months of attending the orientation program, observe proceedings in the Franklin County Municipal Court for six (6) hours with an experienced court appointed or other approved attorney. (See Loc. R. 16.06).
  - (5) Maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct.
- (B) The orientation requirements or a portion thereof may be waived upon application and approval of the Administrative Judge.

### 16.03 Duties

- (A) Upon appointment the attorney shall perform basic duties as warranted by the facts of the case and shall act in a professional manner.
- (B) The attorney must personally represent the client for whom (s)he was appointed and shall not, absent an emergency, allow substitute counsel to represent the client. The attorney must be present at all dispositive

hearings. Repeated failure to personally represent the client will result in removal from the list of Appointed Counsel.

- (C) The attorney shall have a working phone with a secretary and/or voicemail 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.

#### 16.04 Requirements for CLE and Professional Liability (Malpractice) Insurance

- (A) Attorneys wishing to remain on the Court's list of Appointed Counsel must do the following:
  - (1) Attend six (6) hours of continuing legal education related to municipal court practice and approved by the Franklin County Municipal Court during the attorney's reporting period set forth in Gov. Bar R. X. Excess hours may be carried over and applied to the following year. An attorney shall file a certificate of CLE compliance with this Court no later than the thirty-first day of January after the end of the attorney's biennium reporting period.
  - (2) Maintain professional liability (malpractice) insurance in the amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct. An attorney shall file a certificate of compliance with this requirement no later than January thirty-first of each year.

#### 16.05 Removal

##### (A) Temporary Removal

If a criminal charge, a serious traffic charge, or a formal disciplinary complaint is filed against an attorney on the list of Appointed Counsel, the attorney may be removed temporarily from the appointment rotation. An attorney who is temporarily removed is not eligible to be appointed to any cases, and shall not accept appointment to any cases. When the charge or complaint is resolved, the attorney may become eligible to accept appointment.

##### (B) Judicial Removal

An attorney may be removed from the list of Appointed Counsel 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 16.07(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, which 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 that could result in removal of the attorney from the list of Appointed Counsel. The attorney will be given an opportunity to file a written response within fourteen (14) days. Any written response will be distributed at the Judges' Meeting where the removal of the attorney will be considered.

- (C) If an attorney is removed from the list of Appointed Counsel, the attorney may seek reinstatement and may be required to complete the orientation and mentoring requirements. For good cause, the Administrative Judge may remove an attorney from a specific case or from the list of Appointed Counsel.

(D) Duty to Self-Report

If a criminal charge, a serious traffic charge, or a formal disciplinary complaint is filed against an attorney, the attorney is required to immediately notify the chair of the Court Appointed Counsel Committee.

(E) Duty to Cooperate

If an attorney is temporarily or judicially removed from the list of Appointed Counsel, the attorney is required to cooperate with the Court Appointed Counsel Committee by identifying all open cases to which the attorney has been appointed.

16.06 Panel of Mentors

The panel of mentors is composed of experienced attorneys who practice in the Franklin County Municipal Court and are available to mentor new applicants. All communications between an attorney mentor and his client in the presence of an attorney applicant participating in the mentoring shall be deemed confidential and the attorney/client privilege shall apply.

16.07 Court Appointed Counsel Committee

- (A) The Administrative Judge shall appoint judges of the Court to serve on a Court Appointed Counsel Committee. The committee shall have the responsibility to do the following:
  - (1) Determine the qualification of attorneys for inclusion on the list of Appointed Counsel.
  - (2) Obtain a mentor for an attorney who may need remedial assistance to continue to remain on the list of Appointed Counsel.

- (3) Recommend temporary removal or judicial 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) A criminal charge, a serious traffic charge, or a formal disciplinary complaint pending against the attorney
    - (b) Substance abuse issues
    - (c) Mental health issues
    - (d) Professional incompetence
    - (e) Excessive use of substitute counsel or missed appearances.
  - (4) Approve continuing legal education that complies with the requirements of Rule 16.04.
  - (5) Recommend future changes to this rule.
- (B) Nothing in this rule shall limit the authority of the Administrative Judge to appoint ad hoc non voting members to serve on the Court Appointed Counsel Committee as deemed appropriate.

#### 16.08 Payment of Expenses

- (A) Appointed counsel seeking payment 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 an attorney until all necessary forms pertaining to the case are completed and correctly filed.
- (B) 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, or 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.
- (C) Prior to approving an attorney's 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.