



Wayne County Indigent Defense Services Dept.

Qualification and Eligibility of Managed Assigned Counsel

Under the Michigan Indigent Defense Commission (MIDC) Act and Wayne County Ordinances, the Wayne County Indigent Defense Services Department (IDSD) oversees the management and operation of the county's indigent defense system. The IDSD is responsible for establishing policies and procedures governing the determination of eligibility, assignment of counsel, payment for services, and performance monitoring of managed assigned counsel appointed to represent individuals charged with felonies in Wayne County.

This policy outlines key guidelines and performance standards for managed assigned counsel, along with eligibility requirements. It should be reviewed in conjunction with other relevant policies, which collectively define performance expectations.

I. IDSD Managed Assigned Counsel Assignment Committee

- A. A five-member Managed Assigned Counsel Assignment Committee (Committee) is composed and shall serve as a standing committee to determine and evaluate assigned counsel qualifications and performance for placement on the Managed Assigned Counsel Roster (MAC Roster).
- B. The Committee consists of one (1) attorney from the Wayne County criminal defense community, two (2) IDSD Investigator/Expert Administrators, one (1) IDSD Assistant Assigned Counsel Administrator, and the IDSD Assigned Counsel Administrator. The Committee Chair shall be the Assigned Counsel Administrator, and the committee shall meet as often as the Chair directs. The Committee may also solicit the input of two (2) judges from the Third Judicial Circuit Court nominated by the Chief Judge, two (2) judges from District Court, one (1) from 36th District Court and one (1) from another District Court on a rotational basis) nominated by the Chief Judge of 36th District Court and the Wayne County District Judges' Association.
- C. The attorney from the Wayne County criminal defense community may be nominated by the Wayne County Criminal Defense Bar Association. However, the IDSD reserves the right of selection of the attorney.
- D. The judges are advisory to the Committee providing advice concerning the delivery of indigent criminal defense services, including their opinions regarding the competence and performance of assigned counsel providing such services. The judges do not participate in the voting process.

II. Basic Requirements for MAC Roster

To ensure indigent defendants receive effective assistance of counsel to which they are constitutionally entitled, and for consideration of placement on the MAC Roster, applicants shall meet the following minimum professional qualifications as outlined below:



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A. Licensure and Training

1. Must be licensed to practice law in the State of Michigan and an active member in good standing.
2. Attorneys with fewer than two (2) years of experience practicing criminal defense in Michigan shall provide written verification of the completion of at least one basic skills acquisition class.
3. Must record all training in CE Broker as directed by IDSD pursuant to the requirements of the MIDC rules then in effect.
4. Shall complete the required twelve (12) MIDC approved continuing legal education (CLE) courses annually, between January 1st and November 30th, in the following practice areas:
 - a. Training in the Michigan Rules of Evidence, or
 - b. Effective direct examination,
 - c. Effective cross-examination,
 - d. Trial skills,
 - e. Pretrial motion practice,
 - f. Sentencing,
 - g. Technology in the courtroom,
 - h. Development of client relationships, or
 - i. Legal updates
5. At least six (6) hours of CLE must be completed by June 30th of each calendar year of eligibility, unless extenuating circumstances apply with notice to the IDSD Training Administrator. Attorneys may also seek exception for participation in multi-day or multi-CLE Summer or Fall training with proof of registration.
6. If an attorney does not meet the basic requirements outlined in this section, there may be an opportunity to develop skills and eligibility through the IDSD Second Chair Program.

B. Assigned counsel must submit to IDSD via website, a completed application along with supporting documentation, as directed, during applicable application periods.

C. Attorneys must specify on their application all tiers for which they want to be considered. Failure to apply for a specific tier serves as notice to the Committee that the attorney is opting out of the unspecified tier(s). Attorneys will receive written notification of Committee determination regarding their application and eligibility to serve on the MAC Roster.

D. Attorneys seeking to be qualified as assigned counsel must also demonstrate that he/she/they:

1. Has a reliable means of communication, including a telephone number with the capability for callers to leave voice-mail messages and a valid email address; and
2. Will be available to the courts for scheduled court appearances.
3. Will be available to the client for consultation in a professional meeting space within Wayne County, or as most convenient for the client.



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E. Assigned counsel shall notify IDSD of any change in business address, email address, telephone and/or cellular number or FAX number, and maintain current information in the assignment software.

III. Tier Qualifications for MAC Roster

Eligibility for tier placement on the MAC Roster must be based on counsel's ability, training, performance and experience.

TIER	DESCRIPTION
1	Murder and Manslaughter
2	Criminal Sexual Conduct in the 1 st , 2 nd , and 3 rd degree Child Abuse 1 st and 2 nd degree
3	All other Capital Offenses Possession with the Intent to Deliver 450 – 1000 grams of a Schedule 1 or 2 Substance
4	Non-Capital Offenses

TIER 4 (Non-Capital Offenses)

1. Each attorney approved for this tier shall annually complete the required twelve (12) MIDC approved CLE courses between January 1st and November 30th applicable to the following practice areas:
 - a. Training in the Michigan Rules of Evidence,
 - b. Effective direct examination,
 - c. Effective cross-examination,
 - d. Trial skills,
 - e. Pretrial motions practice,
 - f. Sentencing,
 - g. Technology in the courtroom,
 - h. Development of client relationships, or
 - i. Legal updates, and
2. Have the professional experience listed:
 - a. Has practiced criminal law for one full year (either as a prosecutor, public defender, or in private criminal defense practice); and
 - b. Served as trial counsel alone or with other trial counsel and handled a significant portion of the trial in two criminal cases that have reached a verdict, one of which having been submitted to a jury; or
 - c. Have equivalent experience and ability to demonstrate similar skills.

TIER 3 (Capital Offenses and Possession or Intent to Deliver 450 – 100 grams of a schedule 1 or 2 Controlled Substance other than Marijuana)



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1. Each attorney approved for this tier shall annually complete the required twelve (12) MIDC approved CLE courses between January 1st and November 30th applicable to the following practice areas:
 - a. Training in the Michigan Rules of Evidence,
 - b. Effective direct examination,
 - c. Effective cross-examination,
 - d. Trial skills,
 - e. Pretrial motions practice,
 - f. Sentencing,
 - g. Technology in the courtroom,
 - h. Development of client relationships, or
 - i. Legal updates, and
2. Have the professional experience listed:
 - a. Practiced criminal law for five full years (either as a prosecutor, public defender, or in private criminal defense practice); and
 - b. Served as trial counsel alone or with other trial counsel and handled a significant portion of the trial in seven criminal cases that have been submitted to a jury; or
 - c. Present a significant record of consistently high-quality criminal trial court representation and the ability to handle a high-severity felony case.
3. **Note:** The attorney shall request an investigator for any Tier 3 offense, unless the assigned attorney opts out in writing. Refer to the Investigator/Expert Program Policy documents for further detail.

TIER 2 (CSC and Child Abuse)

1. Each attorney approved for this tier shall annually complete the required twelve (12) MIDC approved CLE courses between January 1st and November 30th applicable to the following practice areas:
 - a. Training in the Michigan Rules of Evidence,
 - b. Effective direct examination,
 - c. Effective cross-examination,
 - d. Trial skills,
 - e. Pretrial motions practice,
 - f. Sentencing,
 - g. Technology in the courtroom,
 - h. Development of client relationships, or
 - i. Legal updates, and
2. Each attorney may choose from any of the courses listed above in the subsection 1 above, however, each attorney must also complete at least one of the following courses:
 - a. A course in the examination and jury selection techniques unique to CSC and Child Abuse cases
 - b. A course on other Acts and propensity evidence and
 - c. A course on DNA and Daubert issues.
3. Have the professional experience listed:



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- a. Practiced criminal law for five full years (either as a prosecutor, public defender, or in private criminal defense practice); and
 - b. Served as trial counsel alone or with other trial counsel and handled a significant portion of the trial in seven criminal cases that have been submitted to a jury; or
 - c. Present a significant record of consistently high-quality criminal trial court representation and the ability to handle a high-severity felony or life offense case.
4. **Note:** The attorney shall request an investigator for any Tier 2 offense, unless the assigned attorney opts out in writing. Refer to the Investigator/Expert Program Policy documents for further detail.

TIER 1 (Murder and Manslaughter)

1. Each attorney approved for this tier shall annually complete the required twelve (12) MIDC approved CLE courses between January 1st and November 30th applicable to the following practice areas:
 - a. Training in the Michigan Rules of Evidence,
 - b. Effective direct examination,
 - c. Effective cross-examination,
 - d. Trial skills,
 - e. Pretrial motions practice,
 - f. Sentencing,
 - g. Technology in the courtroom,
 - h. Development of client relationships, or
 - i. Legal updates, and
2. Have the professional experience listed:
 - a. Practiced criminal law for five full years (either as a prosecutor, public defender, or in private criminal defense practice); and
 - b. Served as trial counsel alone or with other trial counsel and handled a significant portion of the trial in seven criminal cases that have been submitted to a jury; or
 - c. Present a significant record of consistently high-quality criminal trial court representation and the ability to handle a life offense case.
3. Each attorney may choose from any of the courses listed above in this subsection 1 above, however, each attorney must also complete an MIDC approved CLE course applicable to “Trying Murder Cases,”
4. **Note:** The attorney shall request an investigator for any Tier 1 offense, unless the assigned attorney opts out in writing. Refer to the Investigator/Expert Program Policy documents for further detail.

IV. Committee Application Review for MAC Roster

- A. The Committee shall review applications submitted during the applicable application period to ensure an attorney’s ability, training, performance, and



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experience match the nature and complexity of the requested tier(s) on the MAC Roster.

- B. The Committee shall consider views and opinions from all stakeholders regarding qualifications and eligibility to serve on the MAC Roster.
- C. The Committee shall vote on the attorney applications. Decisions shall be made by a majority vote of the committee members present. Voting by proxy is not allowed.
- D. Assigned counsel will receive notification of eligibility to accept cases for one or all Tier(s) in writing. Attorneys denied placement on the MAC Roster, or specific Tier assignments, may seek review of the decision or denial within seven (7) days of receipt of the notification. The appeal must be in writing and addressed to the Director of the Indigent Defense Services Department. The written decision made by the Director of the Indigent Defense Services Department is deemed final.
- E. The Assignment Committee does not discriminate on the basis of race, age, color, religion, national origin, gender, sexual orientation, veteran status, or disability provided the disability does not impair a defendant's Sixth Amendment Right to effective counsel.
- F. The Michigan Indigent Defense Commission Standards do not require residency or local bar association membership in order to serve on the MAC Roster. However, an attorney's ability to meet the demands of court appearances and be accessible to the client locally will be strongly considered by the Committee in determining an attorney's eligibility for the MAC Roster.
- G. Service on the MAC Roster is a privilege and not a right.

V. MAC Roster – Continued Eligibility

The Indigent Defense Services Department, as part of its administrative function, will continue to monitor and review assigned counsel eligibility and performance, and recommend sanctions, suspensions, or removal of assigned counsel from the MAC Roster pursuant to MIDC Standard 7. Standard 7 requires that the quality of the representation provided by indigent defense providers be monitored and regularly assessed. The MIDC Act also requires that defense counsel be "systematically reviewed at the local level for efficiency and for effective representation according to MIDC Standards." MCL 780.991(2)(f). Service on the MAC Roster is a privilege and not a right.

- A. All assigned counsel accepting assignments in Wayne County are expected to abide by all performance measures for efficiency and effective representation, including but not limited to: (1) appear in person as directed by respective Courts, (2) conduct necessary in-person jail visits and initial client interviews, (3) conduct out-of-custody client consultations in a business environment that preserves client confidentiality, (4) maintain appropriate billing practices and provide accurate information in the IDSD attorney billing system regarding services rendered, (5) maintain all standards required by statute, Michigan Court Rules, and the Michigan Rules of Professional Conduct and, (6) abide by all IDSD policies then in effect. **Failure to adhere to these performance measures will result in suspension or removal from the MAC Roster.**



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- B. Assigned counsel may request inactive status for his/her eligibility to receive assignments in two month increments by filing such request with the Indigent Defense Services Department.
- C. If assigned counsel fails to accept **any** case assignments within three (3) months, without requesting inactive status, the attorney may be administratively placed on inactive status.
- D. Assigned counsel is encouraged to timely reject case assignments in the assignment system if the attorney is unable to accept the case, rather than allowing the case to “time-out”. IDSD will administratively place assigned counsel on inactive status for repeated failure to respond to case assignment notifications.
- E. Eligibility for reinstatement to active status on the MAC Roster will **automatically** be reviewed after expiration of each period of inactivity. If assigned counsel is placed on inactive status pursuant to Sections B-D, or any combination thereof, and the periods of inactivity cumulatively total six (6) months within the calendar year, the attorney will be removed and must re-apply to serve on the MAC Roster.
- F. Assigned counsel is required to provide written notification to the Indigent Defense Services Department of any show cause or contempt by any court, charges, sanctions, suspensions, or discipline from the State Bar of Michigan or Attorney Grievance Commission. Failure to provide written notification within thirty (30) days of such a finding may result in suspension or removal from the MAC Roster.
- G. Assigned counsel is required to provide written notification to the Indigent Defense Services Department of a finding by any trial or appellate court that their representation in a criminal case constituted ineffective assistance of counsel. Failure to provide written notification within thirty (30) days of such a finding may result in suspension or removal from the MAC Roster.
- H. Upon being informed that assigned counsel has been suspended or disbarred from the practice of law, the attorney shall be removed from the MAC Roster without further notice. Assigned counsel may request reinstatement or re-apply for placement on the MAC Roster when eligible to practice.
- I. Complaints regarding the performance of assigned counsel shall be forwarded to the Indigent Defense Services Department using the Assigned Counsel Services Complaint Form available via the IDSD website. Once received, the IDSD will investigate the complaint.
- J. The Assigned Counsel Administrator will notify assigned counsel in writing of any findings that will result in sanctions, suspension, or removal of counsel from the MAC Roster.
- K. Assigned counsel may appeal the sanction, suspension, or removal of counsel from the MAC Roster, in writing, to the Director of the Indigent Defense Services Department within seven (7) days of receipt of the notification.



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L. The decision made by the Director of the Indigent Defense Services Department is deemed final. Certain matters may be referred to Corporation Counsel for review.