STAFF AGENCY FOR THE JUDICIAL CONFERENCE OF INDIANA

30 SOUTH MERIDIAN STREET, SUITE 900
INDIANAPOLIS, INDIANA 46204-3564
TELEPHONE: (317) 232-1313 FAX: (317) 233-3367

PROBLEM-SOLVING COURT RULES

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BY THE JUDICIAL CONFERENCE OF INDIANA

JUDICIAL CONFERENCE OF INDIANA

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Section 1. Applicability

These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide problem-solving court services to participants pursuant to IC 33-23-16.

Section 2. Approval and Compliance Requirements

(a) A person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide services to persons who participate in a certified problem-solving court and whose services are within the scope of IC 33-23-16, may not offer, advertise, deliver, or provide services without first obtaining a provisional certificate from the Indiana Judicial Center in accordance with these rules.

(b) In order for a court to secure and retain a problem-solving court certificate in accordance with section 6 of these rules, the court shall demonstrate compliance with IC 33-23-16, related laws, rules and regulations, and the standards imposed by these rules.

(c) The Indiana Judicial Center may take any administrative action at any time necessary to ensure compliance with these rules, including, but not limited to:
(1) Reviews,
(2) Site visits,
(3) Suspension of court operations,
(4) Suspension of staff member job functions, and
(5) Surveys.
which may be scheduled or unscheduled, announced or unannounced.

(d) In the event that these rules are amended, a problem-solving court may continue operations pursuant to the amended rules and the court's current problem-solving court certificate until the court's scheduled recertification review is complete unless otherwise directed by the Indiana Judicial Center.

(e) Unless otherwise indicated, these rules and any amendments to these rules take effect on the date that they are adopted by the Judicial Conference of Indiana Board of Directors.

Section 3. Definition of Terms

The following terms, when used in these rules, shall have the meaning as defined below unless the context clearly indicates a different meaning:

"Case management" means goal oriented case management plan activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual problem-solving court participants in accordance with the policies and procedures of the problem-solving court or other services provider.

"Case management file" means all records regarding a participant contained in the file maintained by the case manager, including printed and electronic information regardless of the source of the information.

"Case management plan" means a plan that documents case management activities that the participant must complete as a condition of problem-solving court participation. These activities shall be based upon the results of risk and needs assessment in conjunction with any other assessments, the problem-solving court participation agreement and other court orders.

"Case manager" means a problem-solving court team member responsible for the case management of problem-solving court participants and participant files, which may include administering a risk and needs assessment, substance abuse and mental health screening, referral to treatment and ancillary services; monitoring participant compliance with the participation agreement, case management plan and other applicable agreements; and providing participant progress and compliance information to the problem-solving court team.

"Certification review" means the process of reviewing a court's compliance with the state and federal statutes, regulations and rules for certified problem-solving courts, to include the application for certification, review of applicable documentation, site visit and follow-up activities.

"Chemical test" means an analysis of an individual's blood, breath, hair, sweat, saliva, urine, or other bodily substances to determine the presence of alcohol, drugs, or controlled substances as defined in IC 35-48-1-9.

"Coordinator" means the problem-solving court team member responsible for the administration, management and coordination of problem-solving court services and operations, including overseeing problem-solving court staff activities, ensuring the court's compliance with the problem-solving court statutes and rules, developing problem-solving court policies and procedures, managing service provider contracts and team member memoranda of understanding, managing program grants, facilitating team meetings, and serving as a liaison to local service providers and community groups.

"Documentation" means a written record acceptable as evidence to demonstrate compliance with these rules.

"Eligible individual" means an individual who meets the eligibility criteria as defined in IC 33-23-16-13.

"Eligibility screening" means a procedure for determining a potential participant's legal eligibility for admission to problem-solving court pursuant to IC 33-23-16-13.

"**Evidence-based practices**" means the use of research and science to enhance decision making in the criminal justice system resulting in the use of effective interventions to produce the most favorable results.

"Indiana Risk Assessment System" (IRAS) means the risk assessment system made up of five instruments to be used at specific points in the criminal justice process to identify a participant's risk to reoffend and criminogenic needs, and assist with developing an individualized case management plan.

"Indiana Youth Assessment System" (IYAS) means the risk assessment system made up of six instruments to be used at specific points in the juvenile justice process to identify a juvenile participant's risk to reoffend and criminogenic needs, and assist with developing an individualized case management plan.

"Judicial involvement" means regular and frequent interaction between the problem-solving court judge and participants during case compliance hearings.

"Orientation" means the administrative process in compliance with the requirements of these rules conducted after a participant is accepted by a problem-solving court.

"Outcome evaluation" means an evaluation of program results or outcomes, as measured by collected data, which determines if the program achieved its stated goals.

"Participant" means any person who has signed a problem-solving court participant agreement and been admitted to the problem-solving court by the problem-solving court judge.

"Participation agreement" means the document signed by a participant evidencing the participant's agreement to follow the conditions of problem-solving court participation as required by section 20 of these rules.

"Policy" means a statement of the principles that guide and govern the activities, procedures and operations of a problem-solving court.

"Problem-solving court" means a court as defined in IC 33-23-16-8 that is operating under a problem-solving court certificate issued by the Indiana Judicial Center pursuant to IC 33-23-16, including (as defined in IC 33-23-16):

(a) Community courts;
(b) Domestic violence courts;
(c) Drug courts;
(d) Family dependency drug courts;
(e) Mental health courts;
(f) Reentry courts;
(g) Veterans' courts; and
(h) Any other courts certified as a problem-solving court by the Indiana Judicial Center.

"Problem-solving court advisory body" is a group of people appointed by the supervising judge to provide advice on problem-solving court matters.

"Problem-solving court judge" means the judicial officer who presides over a problem-solving court.

"Problem-solving court services" means a broad range of services provided under a case management plan, including screening, assessment, education, referral, service coordination and case management, supervision, judicial involvement, and program evaluation that may be extended to a problem-solving court participant and that influence the behavior of the participant toward identified goals and objectives. The services and the manner in which they are provided are guided by IC 33-23-16.

"Problem-solving courts committee" means the Judicial Conference of Indiana committee established to integrate problem-solving principles into the administration of justice in order to improve court processes and outcomes while preserving the rule of law.

"Procedure" means a series of activities designed to implement problem-solving court goals or policy.

"Process evaluation" means a procedure to document and analyze the development and implementation of a program, to assess whether strategies were implemented as planned and to determine whether expected outputs were produced.

"Risk and needs assessment" means the procedure used to determine the participant's criminogenic risk and needs using the Indiana Risk Assessment System or the Indiana Youth Assessment System for the purpose of determining eligibility and developing a case management plan.

"Supervising judge" means the judge who has ultimate responsibility for a problem-solving court. The supervising judge may or may not be the problem-solving court judge.

"Supervision" means a method of monitoring a participant's compliance with the participation agreement and case management plan.

"Suspension" means the imposition of limitations on or a full cessation of problem-solving court activities and operations, or a staff member's ability to perform his/her job functions as determined by the Indiana Judicial Center.

"Treatment plan" means a plan that addresses substance abuse or addiction and mental health issues by:

(a) identifying the individual participant's strengths and needs through assessment,

(b) defining goals and objectives based on identified need, and

(c) establishing the services to be provided to assist with achieving the stated goals and objectives.

"Volunteer" means a person who, without direct financial remuneration, provides ongoing services to a problem-solving court.

Section 4. Funding and Training Authorization

(a) A court that is not certified by the Indiana Judicial Center pursuant to IC 33-23-16 and these rules, and an applicant whose plan of operation does not comply with the requirements for certification under these rules is not entitled to receive a favorable review or recommendation from the Indiana Judicial Center on any application for the funding of problem-solving court services from state, federal, or private funding sources.

(b) A court that is not certified by the Indiana Judicial Center pursuant to IC 33-23-16 and these rules is not eligible to send staff or other team members to problem-solving court training events sponsored by the Indiana Judicial Center unless the court is actively planning the establishment of a problem-solving court and in compliance with section 5 of these rules or is otherwise authorized by the Indiana Judicial Center.

Section 5. Notification of Intent

(a) A court shall notify the Indiana Judicial Center in writing during the planning stages of the court's intention to establish a problem-solving court.

(b) Following notice to the Indiana Judicial Center of the court's intention to establish a problem-solving court, the court shall participate in a planning workshop as authorized and required by the Problem-Solving Courts Committee prior to submitting an application to the Indiana Judicial Center under section 6 of these rules.

Section 6. Certification Procedures

(a) Provisional Certification Procedures

(1) A court that proposes to establish a problem-solving court pursuant to these rules shall do the following to become provisionally certified.

(A) Submit a completed application for provisional certification to the Indiana Judicial Center.

(B) Submit a copy of the problem-solving court's policy and procedure manual outlining the court's plan for operation in accordance with IC 33-23-16 and these rules.

(2) The Indiana Judicial Center shall review the court's application and policy and procedure manual and conduct a site visit to determine whether the proposed court practices are in compliance with these rules, applicable federal and state laws, rules and regulations and the court's policy and procedure manual. The Indiana Judicial Center

may offer recommendations as appropriate to assist the court gain compliance with applicable laws, rules and evidence-based practices.

(3) The Indiana Judicial Center must approve or deny the court's application for problem-solving court provisional certification.

(A) The Indiana Judicial Center must approve the application for provisional certification if the court has submitted an application and policy and procedure manual that complies with IC 33-23-16, related laws, rules and regulations, these rules and evidence-based practices, and identified appropriate resources to provide the services proposed.

(B) If the Indiana Judicial Center denies the court's application for provisional certification, the Indiana Judicial Center must follow the procedures outlined in section 7 of these rules.

(4) After a problem-solving court receives provisional certification from the Indiana Judicial Center the problem-solving court may:

(A) assess and collect fees authorized by IC 33-23-16-23 and IC 33-23-16-24; and

(B) begin the delivery of services authorized by IC 33-23-16 in accordance with these rules.

(5) A problem-solving court provisional certificate is valid for up to six (6) months. The Indiana Judicial Center may issue a written extension of the court's provisional certificate for a period not to exceed one (1) year. The provisional certificate must be displayed in a prominent place in the problem-solving court office and a copy shall be kept on file in the office of the Indiana Judicial Center.

(6) A provisionally certified problem-solving court shall maintain compliance with IC 33-23-16 and these rules or the court's provisional certificate is subject to revocation pursuant to section 8 of these rules.

(b) Certification Procedures

(1) A problem-solving court that obtained provisional certification under the Interim Problem-Solving Court Rules is provisionally certified under the authority of these rules and IC 33-23-16, and may seek certification pursuant to these rules as follows:

(A) The problem-solving court must submit an application in accordance with the procedures in subdivision (2) of this subsection no later than ninety (90) days after the effective date of these rules. The problem-solving court's provisional certification shall be extended until the completion of the certification process under this subsection.

(B) A provisional certificate obtained under the Interim Problem-Solving Court Rules expires on the ninetieth (90th) day following the adoption of these rules unless the court has complied with subdivision (2) of this subsection or the certificate has been revoked in accordance with section 8 of these rules. A court with an expired or revoked provisional certificate may not longer operate a problem-solving court as authorized by the IC 33-23-16 and these rules.

(2) Except as provided in subdivision (1) of this subsection, prior to the expiration date of the problem-solving court certificate, including a certificate obtained prior to July 1, 2010, the coordinator must initiate certification in accordance with the following procedures:

(A) notify the Indiana Judicial Center that the problem-solving court intends to apply for certification and request an application for certification;

(B) schedule a review date; and
(C) submit an application for certification and all supporting materials to the Indiana Judicial Center no later than thirty (30) days prior to the review date.

(3) The certification review shall include evaluation of each of the following:
(A) Compliance with IC 33-23-16 and related federal and state laws, rules and regulations, including all applicable Indiana Supreme Court Rules.
(B) Compliance with these rules.
(C) Compliance with the problem-solving court principles and the 10 key components of drug courts, as applicable.
(D) Implementation of the principles of effective interventions.
(E) Compliance with current research on evidence-based practices and programs.
(F) Judicial involvement with participants.
(G) The operation of the case compliance hearings and other related court proceedings.
(H) The number, qualifications, and abilities of problem-solving court staff.
(I) The participation by and interaction between the problem-solving court team members.
(J) The qualifications and abilities of any contractor that provides services to the problem-solving court or its participants, and the contractor's compliance with the terms of the contract.
(K) The qualifications and services of any treatment provider that provides treatment services to problem-solving court participants, and the treatment provider's compliance with the terms of the provider referral agreement.
(L) Investigations of complaints pertaining to the problem-solving court's compliance with IC 33-23-16, these rules and related federal and state laws, rules and regulations.
(M) Any other issues or subjects that the Indiana Judicial Center determines are relevant to the review.

(4) The Indiana Judicial Center shall approve or deny the problem-solving court's application for certification.
(A) If the Indiana Judicial Center approves the problem-solving court's application for certification, the Indiana Judicial Center shall issue a certificate authorizing the court to operate as a problem-solving court for a period not to exceed three (3) years. The certificate must be displayed in a prominent place in the problem-solving court office and a copy shall be kept on file in the office of the Indiana Judicial Center. Not later than sixty (60) days after completion of the certification review, the Indiana Judicial Center shall send a final report to the supervising judge, problem-solving court judge and coordinator.
(B) If the Indiana Judicial Center denies the problem-solving court's application for certification, the Indiana Judicial Center must follow the procedures outlined in section 7 of these rules.

(5) The Indiana Judicial Center may issue a written extension authorizing a problem-solving court to continue to operate under its current problem-solving court certificate in order to complete the certification procedures in this section.

(6) A problem-solving court certified pursuant to this section shall maintain compliance with IC 33-23-16, these rules and related federal and state laws, rules and regulations or the court's certificate is subject to revocation pursuant to section 8 of these rules.

Commentary on Section 6(b)(3).
The common problem-solving court principles as published by the Center for Court Innovation are:

1. *Enhanced Information: Better staff training (about complex issues like domestic violence and drug addiction) combined with better information (about litigants, victims and the community context of crime) can help improve the decision making of judges, attorneys, and other justice officials.*
2. *Community Engagement: Citizens and neighborhood groups have an important role to play in helping the justice system identify, prioritize, and solve local problems. Actively engaging citizens helps improve public trust in justice. Greater trust, in turn, helps people feel safer, fosters law-abiding behavior, and makes members of the public more willing to cooperate in the pursuit of justice (as witnesses, jury members, etc.).*
3. *Collaboration: Justice system leaders are uniquely positioned to engage a diverse range of people, government agencies, and community organizations in collaborative efforts to improve public safety. By bringing together justice players (e.g., judges, prosecutors, defense attorneys, probation officers, court managers) and reaching out to potential stakeholders beyond the courthouse (e.g., social service providers, victims groups, schools) justice agencies can improve inter-agency communication, encourage greater trust between citizens and government, and foster new responses—including new diversion and sentencing options, when appropriate—to problems.*
4. *Individualized Justice: Using valid evidence-based risk and needs assessment instruments, the justice system can link offenders to individually tailored community-based services (e.g., job training, drug treatment, safety planning, mental health counseling) where appropriate. In doing so (and by treating defendants with dignity and respect), the justice system can help reduce recidivism, improve community safety, and enhance confidence in justice. Links to services can also aid victims, improving their safety and helping restore their lives.*
5. *Accountability: The justice system can send the message that all criminal behavior, even low-level quality-of-life crime, has an impact on community safety. By insisting on regular and rigorous compliance monitoring—and clear consequences for non-compliance—the justice system can improve the accountability of offenders. It can also improve the accountability of service providers by requiring regular reports on their work with participants.*
6. *Outcomes: The active and ongoing collection and analysis of data—measuring outcomes and process, costs and benefits—are crucial tools for evaluating the effectiveness of operations and encouraging continuous improvement. Public dissemination of this information can be a valuable symbol of public accountability.*

The ten (10) key components of drug courts published by the Drug Court Program Office of the United States Department of Justice are:

1. *Drug courts integrate alcohol and other drug treatment services with justice system case processing.*
2. *Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.*
3. *Eligible participants are identified early and placed promptly in the drug court program.*
4. *Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.*

5. *Abstinence is monitored by frequent alcohol and other drug testing.*
6. *A coordinated strategy governs drug court responses to participant compliance.*
7. *Ongoing judicial interaction with each drug court participant is essential.*
8. *Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.*
9. *Continuing interdisciplinary education promotes effective drug court planning, implementation and operations.*
10. *Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.*

The eight (8) principles of effective interventions as published by the National Institute of Corrections are:

1. *Assess actuarial risk/needs*
2. *Enhance intrinsic motivation*
3. *Target interventions*
4. *Skill train with directed practice*
5. *Increase positive reinforcement*
6. *Engage ongoing support in natural communities*
7. *Measure relevant processes/practices*
8. *Provide measurement feedback*

Section 7. Denial of Application for Certification and Revocation Procedures

(a) The Indiana Judicial Center may deny an application for certification or revoke a problem-solving court certificate for one (1) or more of the following reasons:

(1) Failure of the applicant or the problem-solving court to comply with IC 33-23-16 and related federal and state laws, rules and regulations.

(2) Failure of the applicant or the problem-solving court to comply with the application requirements in section 6 of these rules.

(3) Permitting, aiding, or abetting the commission of an unlawful act by the applicant or problem-solving court.

(4) Applicant or problem-solving court conduct or practices found by the Indiana Judicial Center to:

(A) threaten public health or safety; or

(B) be harmful to the health or safety of any participant in the problem-solving court.

(5) Deviation from the plan of operation submitted with the application or problem-solving court that, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services provided to participants.

(6) Failure of the applicant or problem-solving court to cooperate with the Indiana Judicial Center in connection with the certification process or an investigation of a complaint pertaining to the court's compliance with IC 33-23-16, these rules and related federal and states laws, rules and regulations.

(7) Failure of the applicant or problem-solving court to provide accurate or reliable information on the application or regarding the problem-solving court's operations or practices.

(b) The Indiana Judicial Center must notify the supervising judge and the problem-

solving court judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to deny the application or revoke the court's problem-solving court certificate. The notice must contain all of the following information:

(1) A brief statement explaining the reasons for the proposed denial or revocation.

(2) If the problem-solving court is currently operational, notice that the Indiana Judicial Center is imposing a suspension on the problem-solving court's operations, if applicable. The suspension continues in effect until the conclusion of all proceedings pursuant to these rules and any judicial review, unless earlier withdrawn by the Indiana Judicial Center.

(3) A statement that the decision to deny the application or revoke the problem-solving court certificate is final unless the supervising judge submits written objections to the Indiana Judicial Center, within thirty (30) days from the date of the notice, stating why the application should not be denied or the problem-solving court certificate should not be revoked.

(c) If objections to a proposed denial or revocation have been timely submitted, settlement of all the points of contention are not made and the Indiana Judicial Center issues a second written notice of denial or revocation, the supervising judge may submit a request for a hearing on the matter in accordance with section 8(b) of these rules.

Section 8. Hearing Procedures

(a) All requests for a hearing to resolve disputes relating to the denial or revocation of a certificate pursuant to section 7 and staff training requirements pursuant to section 12 of these rules shall follow the procedures described in this section.

(b) If the Indiana Judicial Center denies a supervising judge's objections to the denial of an application for certification or revocation of a certificate pursuant to section 7, or staff work restrictions pursuant to section 12(f) or 12(g) of these rules, the supervising judge may request a hearing on the matter as follows:

(1) The request must be submitted in writing to the Indiana Judicial Center within fifteen (15) days from the date of the written notice issued under section 7(c), section 12(f)(2)(C) or section 12(g)(3)(C) of these rules and must state the reason(s) for the hearing request.

(2) The request for a hearing may not include any reason that was not included in the objections submitted under section 7(b), section 12(f) or section 12(g) of these rules, as applicable.

(c) Upon receipt of a request for a hearing, a hearing examiner shall be selected as follows:

(1) The executive director of the Indiana Judicial Center shall create a list of three (3) judges as candidates for hearing examiner who are members of the Problem-Solving Courts Committee (PSCC) but are not members of the Board of Directors of the Judicial Conference of Indiana. The executive director shall consider availability, years of service on the PSCC, and the extent of participation on the PSCC when creating the list of candidates.

(2) The candidates for hearing examiner shall be communicated in writing to the supervising judge no later than fifteen (15) days after the request for a hearing was

received by the Indiana Judicial Center.

(3) The supervising judge shall select a hearing examiner from the list and advise the executive director of this selection in writing no later than fifteen (15) days after the list of candidates for hearing examiner was received by the supervising judge.

(d) The hearing examiner shall conduct an informal hearing within thirty (30) days after the date the hearing examiner is selected by the supervising judge unless otherwise jointly agreed upon by the hearing examiner, supervising judge and the Indiana Judicial Center.

(1) At least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Indiana Judicial Center with written notice of the date, time and place of the hearing.

(2) The hearing examiner is not required to follow any formal rules of evidence or procedure.

(3) Both parties may submit evidence.

(A) The Indiana Judicial Center must show why the application does not meet certification requirements established by the Judicial Conference of Indiana, that revocation of the certificate is justified or that one or more staff members have not met all training requirements.

(4) The hearing examiner shall make an electronic recording of the hearing. The supervising judge and the Indiana Judicial Center may obtain a copy of the electronic recording of the hearing from the hearing examiner.

(5) The hearing examiner may ask the supervising judge and the Indiana Judicial Center to submit proposed findings and recommendations to the hearing officer following the hearing.

(e) No later than thirty (30) days after the date that the hearing under subsection (d) of this section was held, the hearing examiner shall send proposed written findings and recommendations to the supervising judge and the Indiana Judicial Center.

(1) All objections to the hearing examiner's proposed findings and recommendations must be:

(A) in writing; and

(B) submitted to the hearing examiner with a copy to the other party no later than fifteen (15) days after the date that the proposed findings and recommendations were issued.

(2) The hearing examiner shall submit the proposed findings and recommendations to the PSCC unless the supervising judge submits written notice no later than fifteen (15) days after the proposed findings and recommendations were issued, that the supervising judge has decided to withdraw the objections.

(3) If no objections are submitted and the PSCC adopts the findings and recommendations as submitted, those finding and recommendations become final upon adoption. The PSCC's findings and recommendations must be adopted by a majority vote of the members.

(4) If the supervising judge or the Indiana Judicial Center objects to the proposed findings and recommendations, or the PSCC proposes to modify or reject the proposed findings and recommendations, the PSCC must conduct an informal hearing and provide the supervising judge and the Indiana Judicial Center with an opportunity to be heard orally concerning the proposed findings and recommendations. At least ten (10) days before the

date of the hearing, the PSCC shall provide written notice of the date, time and place of the hearing to the supervising judge and the Indiana Judicial Center.
(5) No later than thirty (30) days after date that the hearing under subdivision (4) was held, the PSCC shall submit its written findings and recommendations to the supervising judge and the Indiana Judicial Center. The PSCC's findings and recommendations must be adopted by a majority vote of the members.

(f) The supervising judge or the Indiana Judicial Center may request review of the PSCC's findings and recommendations by the Judicial Conference of Indiana Board of Directors.
(1) The request for review must be:
(A) in writing describing specific objections to the findings and recommendations adopted by the PSCC;
(B) submitted to the chairperson of the Board of Directors no later than fifteen (15) days after the date PSCC adopts its findings and recommendations; and
(C) submitted by the supervising judge or the Indiana Judicial Center with a copy provided to other party.
(2) At least ten (10) days before the meeting, the Indiana Judicial Center shall provide written notice of the date, time and place of the Board of Directors' meeting to the supervising judge and the PSCC.
(3) The Board of Directors' findings and recommendations must be adopted by a majority vote of the members present and voting and are final.
(4) The Indiana Judicial Center shall send written notice to the supervising judge and the PSCC of the Board of Directors' findings no later than ten (10) days after the date of the meeting held pursuant to this subsection.

(g) Upon the conclusion of the proceedings under this section for the denial of an application for certification or revocation of a problem-solving court certificate pursuant to section 7 of these rules:
(1)If the court is permitted to attain or retain problem-solving court certification, the problem-solving court shall comply with the findings and recommendations adopted pursuant to this section as well as IC 33-23-16 and these rules in order to maintain problem-solving court certification.
(2) If the court's application for certification is denied or the problem-solving court certificate is revoked, the court is not authorized to provide problem-solving services pursuant to IC 33-23-16, effective on the date of the Board of Directors meeting held pursuant to subsection (f) of this section.

(h) Upon the conclusion of proceedings under this section for the imposition of staff work restrictions pursuant to section 12 of these rules:
(1) If the problem-solving court is permitted to lift staff work restrictions, the problem-solving shall comply with the findings and recommendations adopted pursuant to this section as well as IC 33-23-16 and these rules to maintain problem-solving court certification.
(2) If the problem-solving court is not permitted to lift staff work restrictions, the problem-solving court shall comply with the restrictions as imposed by the Indiana Judicial Center in order to maintain problem-solving court certification.

Section 9. Records of Problem-Solving Court Proceedings

(a) All problem-solving court hearings shall be recorded in accordance with Ind. Crim. Rule 5.

(b) A chronological case summary shall be created and maintained for each problem-solving court case in accordance with Ind. Trial Rule 77(B).

Section 10. Ex Parte Communications

A problem-solving court judge may initiate, permit and consider ex parte communications with participants, attorneys, problem-solving court staff, problem-solving court team members and others in conjunction with problem-solving court proceedings and the supervision of problem-solving court participants.

Section 11. Notice of Change

(a) A problem-solving court shall submit written notice to the Indiana Judicial Center of:
(1) Personnel changes, including new hires, dismissals and resignations, involving the supervising judge, problem-solving court judge, coordinator or a case manager.
(2) Any location changes of the problem-solving court office or staff.
(3) Any change to the population(s) served by the problem-solving court.

(b) Notice of changes required under this section shall be submitted to the Indiana Judicial Center no later than thirty (30) days after the change takes effect. The Indiana Judicial Center may require a new application and certification review as a result of a personnel or location change. Any changes to the population(s) served by the problem-solving court may require the court to submit a new application to the Indiana Judicial Center and participate in a new certification review in accordance with section 6 of these rules.

(c) A problem-solving court that intends to cease providing problem-solving court services pursuant to IC 33-23-16 shall provide the Indiana Judicial Center with written notice of the pending closure at least thirty (30) days prior to the effective date of the closure. The written notice must include the court's reason(s) for closing and a plan for the transition of the participants to alternative services upon the closure of the problem-solving court.

Section 12. Staff Requirements

(a) A problem-solving court shall develop and observe policy and procedure describing problem-solving court staff qualifications.

(b) A problem-solving court shall maintain written evidence that the coordinator complies with at least one (1) of the following:
(1) has a baccalaureate degree from an accredited university or college, and
(a) the equivalent of three (3) years of full-time paid experience in criminal justice or human services, or
(b) has an advanced degree from an accredited university or college in criminal justice

or human services; or
(2) was employed by a problem-solving court as a coordinator before July 1, 2010.

(c) A problem-solving court shall maintain written evidence that each case manager complies with at least one (1) of the following:
(1) has a baccalaureate degree from an accredited university or college; or
(2) was employed by a problem-solving court as a case manager before July 1, 2010.

(d) A volunteer that performs one or more job functions of the coordinator or a case manager as defined in section 3 of these rules shall meet the qualifications in subsection (b) or (c) of this section, as applicable.

(e) The problem-solving court shall maintain personnel files for the coordinator, each case manager, and any volunteer who performs one or more job functions of the coordinator or a case manager. The personnel files shall contain, at a minimum, the following information:
(1) Date of hire by the problem-solving court for each position held or the date that a volunteer began providing services to the problem-solving court.
(2) Job description, including:
(A) Job title.
(B) Qualifications.
(C) Credentials, if applicable.
(D) Duties and responsibilities.
(E) Reporting and supervisory responsibilities.
(3) Documentation of the minimum job qualifications required by this section.
(4) Documentation of the accrued continuing education hours required by this section.

(f) The coordinator and each case manager shall attend and complete a staff orientation program approved by the Problem-Solving Courts Committee within the staff member's first year of employment with the problem-solving court.
(1) A coordinator or case manager employed by a problem-solving court prior to July 1, 2011, is not required to attend the staff orientation training under this section.
(2) A coordinator or case manager who fails to attend the staff orientation program within the first year of employment is prohibited from performing his or her job functions as defined in section 3 of these rules except as authorized by the Indiana Judicial Center pursuant to this subsection.
(A) The Indiana Judicial Center shall send written notice to the supervising judge and the problem-solving court judge of a staff member's failure to attend and complete staff orientation as required by this subsection.
(B) The Indiana Judicial Center shall notify the supervising judge and the problem-solving court judge in writing of the Indiana Judicial Center's decision to impose a suspension on a coordinator's or case manager's ability to perform his/her job functions as defined by these rules.
(C) The Indiana Judicial Center's decision becomes final on the thirtieth (30th) day following the date of the written notification to the supervising judge unless the supervising judge submits specific written objections to the Indiana Judicial Center before the expiration of the thirty-day period.
(D) If the Indiana Judicial Center and the supervising judge are unable to resolve all

points of contention, the supervising judge may request a hearing in accordance with section 8(b) of these rules.

(g) The coordinator and each case manager shall document twenty (20) hours annually of job specific continuing education approved by the problem-solving court judge.

(1) The coordinator shall maintain documentation of the continuing education hours earned by staff as required under this subsection in the staff member's personnel file.

(2) The coordinator shall submit a report of earned continuing education for each staff member as required by this subsection on an annual basis to the Indiana Judicial Center.

(3) A coordinator or case manager who fails to earn the required continuing education hours under this subsection is prohibited from performing his or her job functions as defined in section 3 of these rules except as authorized by the Indiana Judicial Center.

(A) The Indiana Judicial Center shall send written notice to the supervising judge and the problem-solving court judge of a staff member's failure to attain the annual continuing education hours required by this subsection.

(B) The Indiana Judicial Center shall notify the supervising judge and problem-solving court judge in writing of the Indiana Judicial Center's decision to impose a suspension on a coordinator's or case manager's ability to perform his/her job functions.

(C) The Indiana Judicial Center's decision becomes final on the thirtieth (30th) day following the date of the written notification to the supervising judge unless the supervising judge submits specific written objections to the Indiana Judicial Center before the expiration of the thirty-day period.

(D) If the Indiana Judicial Center and the supervising judge are unable to resolve all points of contention, the supervising judge may request a hearing in accordance with section 8(b) of these rules.

Section 13. Problem-Solving Court Team

(a) A problem-solving court shall have a problem-solving court judge and a team approved by the problem-solving court judge consistent with this section.

(1) Each of the following roles must be represented on the problem-solving court team, but an individual may represent more than one (1) role:

(A) The coordinator;

(B) One (1) or more case managers;

(C) One (1) or more probation officers if the problem-solving court accepts individuals as a condition of probation;

(D) One (1) or more community corrections officers if the problem-solving court accepts individuals as a condition of participation in a community corrections program;

(E) One (1) or more parole agents or representatives if the problem-solving court accepts individuals as a condition of parole;

(F) The local prosecuting attorney or a representative from the prosecuting attorney's office if the problem-solving court accepts individuals under a criminal case number;

(G) One (1) or more criminal defense attorneys if the problem-solving court accepts individuals under a criminal case number;

(H) One (1) or more local mental health providers;

(I) One (1) or more addiction treatment services providers;
(J) One (1) or more representatives from the Veterans' Administration if the problem-solving court accepts individuals pursuant to IC 33-23-16-10; and,
(K) One (1) or more representatives from the Department of Child Services if the problem-solving court accepts individuals pursuant to IC 33-23-16-6.

(2) In addition to the members required under subdivision (1) of this section, the team may include any combination of the following:
(A) Any individual listed in subdivision (1) of this section that is not a required member;
(B) A representative of the community transition program;
(C) A victim's representative or advocate;
(D) A school liaison;
(E) A pharmacist; and,
(F) Any other member approved by the problem-solving court judge.

(b) The problem-solving court shall maintain on file a description of the members of the problem-solving court team and advisory body if one has been appointed. The coordinator shall maintain a signed a memorandum of understanding for each team member that describes the team member's:
(1) agreement to uphold confidentiality requirements;
(2) commitment to the on-going exchange of participant information with the problem-solving court team members; and
(3) problem-solving court responsibilities.

(c) The problem-solving court shall establish a policy and practice of regular team meetings to discuss the eligibility, progress, sanctions and discharge of participants prior to the participants' scheduled court appearances.

Commentary on Section 13(a). Each member of the problem-solving court team should obtain sufficient in-service training each year to stay current in problem-solving court related issues. Nothing in these rules prohibits an attorney from being on the advisory board or team as well as representing problem-solving court participants.

Commentary on Section 13(c). All team members are expected to attend and participate in the team meetings.

Section 14. Policy and Procedure

(a) A problem-solving court shall develop and observe a policy and procedure manual that contains written policies and procedures for conducting day-to-day problem-solving court activities.
(1) The coordinator is responsible for the daily operation and administration of the problem-solving court, including maintaining the policy and procedure manual.
(2) The policy and procedure manual shall:
(A) Contain a written statement of goals and objectives that clearly guides the operation of the problem-solving court and the delivery of services.
(B) Incorporate the principles of a problem-solving court and the ten (10) key

components of drug courts, as applicable, into its policies and procedures.
(C) Be updated as needed, but at least annually.
(D) Be available to the problem-solving court team and staff.
(E) Reflect all current practices.

(3) The problem-solving court's written policies and procedures shall include each of the following:
(A) Full documentation of the problem-solving court's operational and administrative structure.
(B) A description of all team member roles and responsibilities.
(C) A description of the problem-solving court participant eligibility criteria.
(D) A confidentiality policy.
(E) A policy and practice of nondiscrimination in providing problem-solving court services.
(F) A policy and practice that participants are not prohibited from exercising or compelled to waive their constitutional rights as a condition of participation.
(G) Regular court hearings to conduct case compliance monitoring.
(H) Judicial interaction with participants during case compliance hearings.
(I) A description of the problem-solving court's incorporation and implementation of the principles of effective interventions and evidence-based practices in its practices and programming.
(J) A description of the range of services and supervision provided to participants in compliance with the principles of effective interventions and evidence-based practices.
(K) The range of incentives and sanctions that may be imposed by the problem-solving court.
(L) Other information as required by these rules.

(b) If a problem-solving court refers a participant to a provider, including an individual, for substance abuse or mental health treatment services not provided by the problem-solving court, the problem-solving court shall verify that the provider is an addictions or mental health treatment services provider certified by the Division of Mental Health and Addiction, or certified, licensed or accredited by an equivalent certifying agency and maintain a copy of the provider's certification or license.

(c) The problem-solving court shall have a written referral agreement with a substance abuse or mental health treatment services provider if the problem-solving court has referred or plans to refer ten (10) or more participants to the provider for treatment in any calendar year. The written referral agreement shall include procedures for the following:
(1) Initiation and acceptance of referrals;
(2) Exchange of participant-related information; and,
(3) Post-referral reporting by the treatment services provider that enables the problem-solving court to perform its monitoring responsibilities.

(d) A problem-solving court may contract with a person, firm, corporation, association, or governmental entity, to provide one (1) or more services for the problem-solving court except participant legal eligibility determination and participant discharge. A contractor must possess and demonstrate the capability to provide contractual services for the problem-solving court in the manner intended to meet all requirements in IC 33-23-16 and these rules that apply to the

services the contractor provides.

Commentary on Section 14(b). The problem-solving court must confirm the credentials of each treatment provider as required by this section prior to making participant referrals. Ancillary service providers are not required to be certified or licensed.

Section 15. Fiscal Management

(a) The problem-solving court shall develop and observe written policy and procedure on fiscal management that governs cash handling procedures, establishes an accounting system, and complies with all applicable requirements of the Indiana State Board of Accounts.

(b) Upon request, the problem-solving court shall provide the Indiana Judicial Center with any and all relevant financial information, including reports, audits, or approvals issued by the Indiana State Board of Accounts.

(c) The problem-solving court shall develop and maintain:
(1) A current budget.
(2) A documented schedule of fees.
(3) Procedures to ensure payment for services.

Section 16. Problem-Solving Court Fees

(a) If a problem-solving court elects to charge fees authorized by these rules, the problem-solving court shall develop and observe written policy and procedure on the assessment and collection of fees.

(b) A problem-solving court may require eligible individuals to pay a problem-solving court administration fee of not more than one hundred dollars ($100) per admission to a problem-solving court for initial problem-solving court services regardless of the length of participation in the problem-solving court.

(c) A problem-solving court may require participants to pay a problem-solving court services fee for each admission to a problem-solving court. The problem-solving court may assess the problem-solving court services fee and collect the fee in an amount not to exceed fifty dollars ($50) per month beginning with the second month of participation and for each month thereafter for the duration of participation in the problem-solving court.

(d) The problem-solving court shall adopt by local court rule a schedule of fees assessed for problem-solving court services.

(e) The problem-solving court fees authorized under this section shall be collected and utilized in accordance with IC 33-23-16-23.

Section 17. Reports and Evaluations

(a) A problem-solving court shall collect statistical data as required by the Indiana

Judicial Center.

(b) A problem-solving court shall complete a process evaluation within the first three (3) years of operation and at least once every three (3) years thereafter. The problem-solving court shall complete outcome evaluations as appropriate.

(c) A problem-solving court shall provide each participant with an opportunity to complete a survey intended to provide the problem-solving court with the participant's written comments about the services provided. The survey must include an opportunity to comment on each of the following:

(1) Services or programs provided directly by the problem-solving court.
(2) Services or programs provided by the problem-solving court through a contractor.
(3) Services or programs provided by referral agencies.

(d) The coordinator shall:

(1) Prepare a written problem-solving court annual report for the preceding year that includes, at a minimum, each of the following:
  (A) A summary of the problem-solving court's activities and accomplishments.
  (B) A summary of the problem-solving court's income and expenditures, including all user fee account activity.
  (C) Documentation of any certification reviews or visits, if applicable.
  (D) Statistical data, including new participant admissions, the graduation rate, retention rate, and the number of participants terminated from the problem-solving court.
  (E) The results of any process and outcome evaluations of the problem-solving court.
(2) Submit a copy of the annual report to the Indiana Judicial Center no later than March 31st of each year.

Section 18. Eligibility and Referral

(a) A problem-solving court shall develop and observe written policy and procedure for referral to the problem-solving court and for determining an individual's eligibility for problem-solving court participation under IC 33-23-16-13.

(b) A person is not eligible for participation in a problem-solving court that admits individuals under a criminal case number pursuant to IC 33-23-16-13(3)(A) or (B) if the offense for which the person will be admitted into the problem-solving court is a forcible felony as defined in IC 35-41-1-11.

(c) A person referred to a problem-solving court under a criminal case number or pursuant to a delinquency petition shall be assessed using the Indiana Risk Assessment System or Indiana Youth Assessment System prior to admission to the problem-solving court. The results of the risk assessment shall be considered when determining an individual's eligibility for problem-solving court participation.

(d) A problem-solving court may utilize any additional appropriate empirically validated assessment instrument to determine an individual's eligibility for problem-solving court

participation.

(e) The problem-solving court judge must authorize all participant admissions to the problem-solving court.

Section 19. Participation Agreement

(a) A problem-solving court shall develop and utilize a participation agreement that is filed with the problem-solving court and contains each of the following:

(1) The county or jurisdiction of the problem-solving court.
(2) The signature of each party to the participation agreement.
(3) The source of the court's jurisdiction under IC 33-23-16-13.
(4) The case number accepted into the problem-solving court.
(5) The length of the problem-solving court program.
(6) A list of rights the participant must waive in order to participate in the problem-solving court.
(7) A list of problem-solving court requirements.
(8) An advisement that the participant will be subject to assessment utilizing the Indiana Risk Assessment System or the Indiana Youth Assessment System throughout participation in the problem-solving court if the participant is admitted into the problem-solving court under a criminal case number or delinquency petition. The results of any such assessments will be entered into the risk assessment system database.
(9) The impact of successfully completing problem-solving court on the case number under which the participant was admitted into problem-solving court.
(10) The consequences to the participant as a result of termination from problem-solving court.
(11) Information related to problem-solving court fees.
(12) An advisement that the participant's case and compliance, including information that might otherwise be confidential, will be discussed in open court.

(b) A problem-solving court shall develop and use a form evidencing that each participant referred to the problem-solving court under a criminal case number was provided with the opportunity to review and discuss the participation agreement with counsel prior to entering into the agreement. The form must contain the date of the review and signature lines for the participant and defense counsel. The problem-solving court must place the form containing the original signature(s) in the participant's case management file.

(c) The participation agreement shall include the signature of all parties to the agreement.

(d) A copy of the signed participation agreement shall be maintained in the participant's case management file.

Section 20. Confidentiality of Records

(a) A problem-solving court shall develop and observe written policy and procedure that ensures the confidentiality and security of participant records. All information contained in problem-solving court participant case management files is confidential and may only be

released in accordance with the appropriate legal authority or problem-solving court policy and procedure as established under this section.

(b) A problem-solving court shall develop and observe policy and procedure governing the release of participant records in problem-solving court participant case management files not otherwise governed by subsection (c) of this section.

(c) A problem-solving court that refers participants to substance abuse services or mental health services shall develop and observe written policy and procedure, conforming to applicable state and federal laws, that ensures the confidentiality and security of these participant records. At a minimum, the policy and procedure shall include the following:

(1) The confidentiality of drug and alcohol abuse patient records in compliance with 42 CFR Part 2, including:

(A) What information is confidential.
(B) Who is covered by the regulations, including minor participants, mentally incompetent participants and deceased participants.
(C) When disclosure of protected information requires consent.
(D) When disclosure of protected information does not require consent.
(E) The execution of release of information forms as required in subsections (d) and (e) of this section.
(F) Participant access to records.
(G) Documentation in the participant case management file of the release of all confidential information.

(2) The release of health care and mental health records in compliance with IC 16-39.

(d) A problem-solving court that admits a participant under a criminal case number and refers that participant to substance abuse services shall create and utilize a criminal justice (non-revocable) release of information form in compliance with 42 CFR Part 2 to obtain the participant's consent for the release of confidential information to and among the problem-solving court team members and providers for the purpose of monitoring the participant's progress in problem-solving court.

(1) The staff member completing the consent form shall cross out or mark "NA" on any blank lines remaining after the form has been completed to ensure the form is not altered after execution.
(2) The release of information form with the participant's original signature shall be maintained in the participant's file.
(3) A copy of the signed release of information form shall be provided to the participant.

(e) A problem-solving court that admits a participant under a civil case number and refers that participant to substance abuse services shall create and utilize a general (revocable) release of information form in compliance with 42 CFR Part 2 to obtain the participant's consent for the release of confidential information to and among the problem-solving court team members and providers. A problem-solving court that admits a participant under a criminal case number and refers that participant to substance abuse services may also create and utilize a general (revocable) release of information form in compliance with 42 CFR Part 2 to obtain the participant's consent for the release of confidential information to other individuals designated by the participant.

(1) The staff member completing the consent form shall cross out or mark "NA" on any blank lines remaining after the form has been completed to ensure the form is not altered after execution.
(2) The release of information form with the participant's original signature shall be maintained in the participant's file.
(3) A copy of the signed release of information form shall be provided to the participant.

(f) Chronological case summary entries shall be brief and contain only non-confidential information to the extent possible.

(g) In order to protect participant confidentiality, the problem-solving court's facilities, including waiting rooms, offices, chemical testing facilities, and group areas other than the court room shall be arranged in a way that minimizes disclosure of confidential information to the general public.

(h) The facilities shall provide adequate space for storage of all participant case management files and permit participant case management files to be properly secured at all times as required under federal regulations and state rules. The problem-solving court shall comply with Ind. Administrative Rule 6 and Ind. Administrative Rule 7 governing the storage, retention and disposal of judicial records.

Section 21. Orientation

(a) A problem-solving court shall develop and observe a written policy and procedure for conducting orientation with each participant, and when appropriate, the participant's family.
(1) The policy and procedure for orientation shall include an explanation of each of the following:
(A) Specific eligibility requirements for problem-solving court participation, including the fact that a person does not have a right to participate in problem-solving court.
(B) The services offered by the problem-solving court either directly, by contract or by referral.
(C) The requirements for successful completion of problem-solving court, including a description of the scheduling and attendance requirements for court dates, chemical testing, day reporting, appointments with case managers and treatment providers, self-help and other group meetings, and other regularly scheduled requirements.
(D) Conduct and behavior that could result in sanctions or termination from problem-solving court.
(E) Possible sanctions for non-compliance with problem-solving court requirements.
(F) Information about the treatment providers used by the problem-solving court, including name, address, telephone number, and services provided.
(G) Information regarding the cost to participants for problem-solving court services, day reporting, home detention and work release, chemical testing, treatment services and any other programs and services and the procedure and schedule for paying these fees.
(H) Information about the problem-solving court's policy and procedures for scheduling and conducting chemical tests.

(2) Orientation may be conducted during an individual or a group appointment.

(b) A problem-solving court shall create and use a form to advise each participant in writing of the information described in subsection (a) of this section. The form must contain a signature line or a signature page for the participant to indicate that the participant has been provided a copy of the form, understands the information provided, and agrees to comply with all participation requirements. The problem-solving court shall maintain the form or the signature page with the participant's original signature in the participant's case management file.

Section 22. Risk and Needs Assessment

(a) A problem-solving court admitting participants under a criminal case number or delinquency petition shall develop and observe written policy and procedure for scheduling and conducting risk and needs assessments utilizing the Indiana Risk Assessment System (IRAS) or the Indiana Youth Assessment System (IYAS).

(b) The IRAS/IYAS risk and needs assessment policy, procedure and practice shall meet each of the following criteria:

(1) Risk and needs assessments shall be conducted by an individual certified by the Indiana Judicial Center in accordance with the Indiana Youth Assessment System and Indiana Risk Assessment System user certification policy adopted by the Judicial Conference of Indiana Board of Directors.

(2) If the risk and needs assessment results suggest that the participant requires a more detailed evaluation in a particular area such as substance abuse, mental health, etc., the participant shall be referred to an appropriate provider for further evaluation.

(3) Reassessments shall be conducted in accordance with the Indiana Youth Assessment System policy or the Indiana Risk Assessment System policy as adopted by the Judicial Conference of Indiana Board of Directors.

(4) Each participant shall be reassessed upon discharge from the problem-solving court.

(5) A copy of the summary page of the initial assessment and any reassessments conducted during problem-solving court participation shall be maintained in the participant's case management file.

(6) The confidentiality of participant risk assessment information shall be maintained in accordance with the policy adopted by the Judicial Conference of Indiana Board of Directors.

(c) A problem-solving court may develop and observe written policy and procedure for scheduling and conducting assessments utilizing any appropriate empirically validated assessment instrument to determine the needs of individuals referred to the court under a civil case number or the needs of individuals referred under a criminal case number or delinquency petition in addition to the IRAS/IYAS.

Section 23. Case Management Plan

(a) The problem-solving court shall develop and observe written policy and procedure for developing and updating a case management plan for each participant based on the results of the risk and needs assessment conducted pursuant to section 22 of these rules and any other

assessments completed by problem-solving court staff or a treatment or services provider.

(b) The case management plan may address the following components:
(1) Supervision, including work release, home detention, day reporting, electronic monitoring, and chemical testing.
(2) Mental health treatment services.
(3) Substance abuse treatment services.
(4) Anger management.
(5) Community and victim services.
(6) Faith-based services.
(7) Employment services.
(8) Restitution.
(9) Housing services.
(10) Domestic violence services.
(11) Education services.
(12) Life skills.
(13) Medical services.
(14) Dental services.
(15) Family counseling.
(16) Parenting counseling.
(17) Child visitation.

(c) The problem-solving court shall provide a copy of the case management plan to the participant and document the participant's receipt of the plan in the participant's case management file. The case management plan shall be maintained in the participant's case management file.

(d) The problem-solving court shall develop and maintain policy and procedure for periodically updating the case management plan by creating subsequent case management plans maintained in the participant's case management file, documenting plan modifications through written updates submitted by the case manager and maintained in the participant's case management file or through progress notes maintained in the participant's case management file.

(e) If the case management plan includes a referral to a service provider, the service provider must provide the case manager with periodic updates reporting the participant's progress. The case manager shall maintain written updates in the participant's case management file or include other types of updates in the progress notes.

(f) If the case management plan includes a referral to a mental health or substance abuse treatment provider for services, the treatment provider must give the case manager a copy of the treatment plan, any revisions to the treatment plan and periodic updates reporting the participant's progress. The case manager shall maintain the treatment plan, any revisions to the treatment plan and the periodic updates in the participant's case management file.

Section 24. Case Management

(a) The problem-solving court shall develop and observe policy and procedure for

recording participant progress in the participant's case management file.

(b) The participant case management files kept by the case manager shall comply with the following:

(1) Progress notes shall be filed or maintained in chronological order, either integrated or by type of record.

(2) Progress notes shall contain the date and the signature, name, or initials of the staff member making the entry.

(3) Progress notes shall document of the following:

(A) All contact with the participant.

(B) All contact with an individual or an agency directly regarding the participant.

(4) Contain all records as required by these rules.

(c) The case manager shall monitor the participant's compliance with the participation agreement and the case management plan. The case manager shall facilitate, coordinate, and monitor the full range of basic human needs, treatment, and service resources and delivery for problem-solving court participants in accordance with these rules, the policies and procedures of the problem-solving court, service provider(s) and treatment provider(s).

Section 25. Chemical Testing

(a) The problem-solving court may require participants to submit to chemical testing to determine the participant's use of alcohol and drugs.

(b) If the problem-solving court mandates chemical testing of participants, the problem-solving court shall develop and observe written policy and procedures for scheduling and conducting chemical tests, to include:

(1) The specific method or methods of chemical testing used.

(2) What samples are collected and tested, such as urine, blood, breath, sweat or saliva.

(3) Substances identified by testing.

(4) The cutoff level for each substance.

(5) Collection procedures including staff training and sample chain of custody.

(6) Policy on missed tests, adulterated samples, dilute samples, and inadequate samples.

(7) The cost of and payment procedures for chemical testing.

(8) Circumstances requiring a confirmation test, if any.

(A) The problem-solving court's procedures for confirmation including the type of confirmation test used.

(B) The party responsible for paying the cost of a confirmation test.

Section 26. Transfers

(a) A problem-solving court may initiate and/or accept transfers of individuals from another court.

(b) A problem-solving court that permits participants to transfer out of the county or accepts the transfer of individuals in from another county shall develop and observe written policy and procedure for the consideration of transfer applications to include the following:

(1) An individual does not have a right to a problem-solving court transfer. The sending and receiving courts have the discretion to approve or deny a transfer application. A transfer is deemed approved only if both the sending and receiving courts approve the transfer request in writing.
(2) A problem-solving court transfer received from another county shall be for the purposes of supervision and problem-solving court participation only, including intermittent sanctioning authority. The problem-solving court shall send the individual back to the sending court when the participant has completed all of the problem-solving court's participation requirements or has violated the problem-solving court's participation requirements.
(3) The sending court shall retain jurisdiction over case disposition in accordance with section 27 of these rules.

(c) A problem-solving court may accept a transfer from another court within in the same county in accordance with local court rules and/or local court administrative policy.

(d) A problem-solving court transfer fee may be charged to an individual for any approved transfer.
(1) A participant may be charged a transfer fee by both the sending and receiving problem-solving courts.
(2) The problem-solving court transfer fee may not exceed twenty-five dollars ($25).
(3) The problem-solving court shall adopt by local court rule the fee assessed to participants for a problem-solving court transfer.

(e) The problem-solving court fees authorized under this section shall be collected and utilized in accordance with IC 33-23-16-23.

Section 27. Discharge Procedures

(a) The problem-solving court shall develop and observe written policy and procedure for processing the discharge, successful completion or termination, of all participants under the problem-solving court's jurisdiction pursuant to IC 33-23-16-13(3). Written notice shall be provided to the referring court or agency after the participant has successfully complied with the participant's participation agreement and case management plan or been terminated from the problem-solving court.

(b) Termination proceedings shall include the following participant rights:
(1) written notice of the alleged violation(s);
(2) a hearing in open court before the problem-solving court judge or another judicial officer;
(3) representation by counsel;
(4) disclosure of the evidence against the participant;
(5) an opportunity to be heard and present evidence;
(6) confrontation and cross-examination of witnesses; and
(7) a determination that the participant violated one or more conditions of the participant's participation agreement or case management plan by a preponderance of the evidence.