

Board Spotlight: Standard K for Board Members

April 2022

Public defenders often wade through crushing caseloads and struggle to provide their clients with ethical, competent representation. Too many cases and too little time is a stark reality for all too many. In fact, one of the primary reasons for the creation of the Indiana Public Defender Commission was to develop standards to reduce the likelihood of a public defender becoming overwhelmed. Together, the Indiana Rule of Professional Conduct 1.16 and the Commission's Standard K recognize this critical issue and provide direction to public defenders who find themselves overwhelmed, even when following Commission caseload standards.

Rule 1.16 requires attorneys to decline additional case appointments when they determine that accepting additional cases will lead to inadequate representation. The Commission's Standard K places a further obligation upon public defenders to inform the PD board, chief public defender, and/or judge (depending on the county's comprehensive plan) that their acceptance of any additional cases, or their continued representation in existing cases, would result in representation that lacks quality or would breach their professional obligations. The Standard explains that a chief public defender is also required to refuse to accept further cases if the office's continued acceptance would result in the same quality or ethical issues previously described.

Neither the standard nor the rule creates an obligation for boards to refuse case appointments on behalf of the county's public defenders after receiving an individual attorney's Standard K notice. The Commission hopes its new caseload standards, effective

January 1, 2024, will limit the necessity for Standard K notices. However, when they occur, boards can work with attorneys to determine the nature and expected duration of the attorney's issue. For example, is it a particular case or cases that are especially challenging to caseload standard expectations which will resolve upon case resolution? Is it a temporary or extended personal issue? After defining the problem, possible solutions could include: acquiring investigative support for the attorney, hiring outside counsel to alleviate excessive caseloads, or transferring clients to alternate counsel.

The Commission encourages boards to become familiar with [Standard K \(linked\)](#) and [Rule 1.16 \(linked\)](#) in case the county public defenders ever need to invoke those authorities. Also, the Commission encourages boards to direct their county public defenders to the standard and the rule should the board receive complaints or concerns about excessive workloads.

The Commission is happy to work with any board that faces a Standard K notice. If you have questions about your county's caseload for public defenders or questions about a specific attorney's caseload, please reach out to Commission staff at information@pdcom.in.gov.