

## Standards Spotlight: Commission Revises Standard E Regarding Qualifications for Juvenile Defenders

Historically, the Public Defender Commission Standards have provided for experiential components that, except for CHINS cases and appellate attorneys, can be satisfied by criminal defense experience alone. There is a growing realization, however, that the standards should require specialized training for some legal practice areas.

Standard E has provided for specialized training for CHINS cases since 2013. Standard F has always required specialized education for appellate public defenders. More recently, the Indiana Task Force on Public Defense found generally that public defenders need “special training and experience” for cases with significant penalties, such as death penalty and high-level felony cases. The Task Force specifically concluded, however, that “there is also recognition among national experts that other specialty areas, such as juvenile and CHINS representation, require specialized knowledge to adequately represent clients.”<sup>1</sup>

One such authority is the National Juvenile Defense Center, which in its Juvenile Defense Standards specifically provides that “specialized and comprehensive training, preparation, and education are required to provide effective representation of young people.”<sup>2</sup> The National Juvenile Defense Center identifies at least six specific areas in which training and education should be provided:

- a. Counsel should be familiar with and utilize state juvenile delinquency statutes, criminal statutes, case law, rules of procedure, rules of evidence, and rules of appellate procedure that impact juvenile practice;
- b. Counsel should be knowledgeable about the key aspects of developmental science and other research that informs specific legal questions regarding capacities in legal proceedings, amenability to treatment, and culpability; counsel should recognize when to consult experts;
- c. Counsel must be properly trained in effective adolescent interviewing techniques;
- d. Counsel must have training in the specialized skill of communicating with young clients in a developmentally appropriate and effective manner;
- e. Counsel should be up-to-date on the consequences of juvenile adjudication; and

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<sup>1</sup> Indiana Task Force on Public Defense, “Findings and Recommendations of the Reporting Subcommittee of the Indiana Public Defender Commission,” at 27 (2018).

<sup>2</sup> Nat’l Juvenile Def. Cent., Nat’l Juvenile Def. Stds. 1.3 (2013).

- f. Counsel should be proficient with the operations of, and laws regarding, child-serving institutions, including schools, social service agencies, and mental health agencies.<sup>3</sup>

Similarly, the American Bar Association states that attorneys representing juveniles “should be encouraged to qualify themselves for participation in juvenile and family court cases through formal training, association with experienced juvenile counsel or by other means.”<sup>4</sup> The ABA further recommends that “[s]uitable undergraduate and graduate educational curricula concerning legal and nonlegal subjects relevant to representation in juvenile and family courts should regularly be available.”<sup>5</sup>

In recognition of the importance of juvenile defender education, at the Commission meeting on July 21, 2021, the Indiana Public Defender Council proposed a new requirement for public defenders who represent juveniles. The Council proposed amending Standard E, which governs trial level public defenders’ required qualifications, to include formal training for juvenile defenders. The proposed standard would require any lawyer who qualifies to represent juveniles in juvenile delinquency cases solely because of the attorney’s adult criminal experience, as opposed to prior juvenile representation experience, to also complete at least six hours of training in juvenile delinquency practice in a course approved by the Commission. The proposed standard would also allow an attorney to become qualified for juvenile delinquency Levels 1-4 if the attorney has completed a felony JD trial and the six hours of Commission-approved training.

At the meeting, Council Staff Attorney Joel Wieneke recognized that juvenile delinquency is a specialized area of criminal law with unique dispositional options. The Council offers a six-hour, pre-recorded video series that satisfies the Commission requirement for juvenile delinquency training. The training is free if taken solely for the purpose of becoming compliant with Commission Standard E. Attorneys may request that other training courses be approved by the Commission in satisfaction of the juvenile education requirement.

The Commission approved the proposed changes to Standard E. Thus, for attorneys seeking to become qualified to represent juveniles in delinquency cases based on the attorney’s adult criminal experience, they must complete at least six

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<sup>3</sup> *Id.*

<sup>4</sup> *Juvenile Justice Standards Annotated: A Balanced Approach, Standards Relating to Counsel for Private Parties* § 2.1(a)(i) (Institute for Judicial Administration/American Bar Association, Ed., 1980).

<sup>5</sup> *Id.* at § 2.1(a)(ii).

hours of training in juvenile delinquency practice in a course approved by the Commission. Standard E now also allows an attorney to become qualified for juvenile delinquency Levels 1-4 if the attorney has completed a felony juvenile trial and the six hours of Commission-approved training. The revised Standard E can be found on the Public Defender Commission website at <https://www.in.gov/publicdefender/files/indigent-defense-non-cap-last-modified-July-21,-2021.pdf>. Any questions about the new requirements can be directed to the Commission at [information@pdc.in.gov](mailto:information@pdc.in.gov). Questions about the Council training can be directed to Joel Wieneke at [jwieneke@pdc.in.gov](mailto:jwieneke@pdc.in.gov).