

Office of the State Public Defender Administrative Policies

Subject: Client Grievance Procedure	Policy No.: 110
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1.0 POLICY

It is the policy of the Office of the State Public Defender to address client grievances in an efficient, timely, and courteous manner. The following procedures for are established for clients alleging grievance against the public defender attorney assigned to the client's case. For purposes of this policy the grieving client is referred to as the complainant.

2.0 PROCEDURE

2.1 WRITTEN COMPLAINT

Any client alleging grievance against the public defender attorney assigned to the client's case shall complete a written statement of grievance and submit it to the appropriate regional deputy public defender. All complaints must be submitted only by the client or by an individual that has the legal authority to act on behalf of the client.

2.2 ACTION ON RECEIPT OF WRITTEN COMPLAINT

Upon receipt of a signed, written complaint against a public defender, the regional deputy shall take the following actions:

- A. Provide the respondent attorney with a complete copy of the complaint and follow up statement, if any;
- B. Carefully review the complaint; and
- C. Consult with the respondent attorney to discuss appropriate action to be taken.

In addition, the regional deputy may choose to contact the complainant (either in person or via telephone call) for the purpose of obtaining further clarification regarding the facts alleged.

2.3 DECISION BY REGIONAL DEPUTY PUBLIC DEFENDER

Following step 2.2, the regional deputy shall make an initial decision regarding action, if any, to be taken by the respondent attorney and shall, thereafter, advise the complainant of the decision.

2.4 DETERMINATION DENYING CHANGE OF COUNSEL; APPEAL PROCESS

- A. **Failure of the Complaint to Set Forth Adequate Grounds for Change of Counsel:** If the regional deputy determines that the complaint fails to establish adequate grounds for change of counsel, the regional deputy

shall so advise the complainant. Any decision denying a complainant's request for change of attorney shall inform the complainant of the right to file a request for further review by the Grievance Review Officer for the Office of the State Public Defender, as designated by the Chief Public Defender.

- B. **Appeal to Grievance Review Officer:** If the complainant disagrees with the decision of the regional deputy public defender, the complainant shall notify the regional deputy of that fact at the time the regional deputy notifies the complainant of the fact of denial. In such event, the regional deputy shall provide the grievance packet (containing a copy of the original complaint and a copy of the regional deputy's decision) to the Grievance Review Officer.
- C. **Review and Decision by Grievance Review Officer:** The Grievance Review Officer shall issue a written decision either upholding the regional deputy's decision or reversing it with instructions to implement an immediate change of counsel in a timely manner. The Grievance Review Officer may, but is not required to, consult with the complainant prior to issuing the decision.
- D. **Motion for Change of Counsel:** If the complainant decides, after proper notification from the Grievance Review Officer, that the complainant nonetheless wishes to pursue the grievance with the court of record, the Grievance Review Officer shall notify counsel of record in writing to file an appropriate motion.

2.5 DETERMINATION APPROVING CHANGE OF COUNSEL

Adequacy of the Complaint to Support Change of Counsel: If the regional deputy decides that the complaint does provide adequate grounds for change of counsel, the regional deputy shall immediately effectuate a substitution of counsel and shall advise the complainant, the attorney of record, new counsel, and the court. Reasons for the change shall be documented in the regional deputy's file but shall not be provided to the court, to new counsel, or to opposing counsel. The notice of substitution shall conform to standard pleadings of the jurisdiction.

3.0 CLOSING

Questions about this policy should be directed to the Central Office at the following address:

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Butte, MT 59701
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