



Rules of
Public Defender Commission
Division 10—Office of State Public Defender
Chapter 6—Outside Practice of Law by Public Defenders

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**Title 18—PUBLIC DEFENDER
COMMISSION**

**Division 10—Office of State Public
Defender**

**Chapter 6—Outside Practice of Law by
Public Defenders**

**18 CSR 10-6.010 Outside Practice of Law
by Public Defenders**

PURPOSE: This rule establishes the limited circumstances in which attorneys employed as public defenders are authorized to practice law outside of their assigned public defender cases in accordance with section 600.021.2, RSMo 2000.

(1) Moving from Private Practice to Public Defense. Attorneys newly hired by the Missouri State Public Defender System (MSPD) who have existing attorney-client obligations that cannot be resolved prior to the commencement of employment, may be authorized to continue providing representation in a limited number of outside matters after their public defender start date, if the director or the director's designee deems it to be in the best interest of MSPD to bring the attorney on staff prior to the resolution of all outside cases. If continued representation in outside cases is authorized, the following parameters must be met:

(A) The outside practice must not conflict with the attorney's work on MSPD matters and the attorney is expected to work the minimum number of required hours each pay period on MSPD matters or obtain supervisory approval to take annual or unpaid leave;

(B) Prior to beginning employment, the new hire and the director, or the director's designee, shall agree, in writing, upon the cases to be retained and the scope of the work that remains to be done on each. The attorney may continue to receive compensation for approved outside work based on a fee agreement entered into prior to employment with MSPD, but the attorney may not expand the scope of representation in any matter beyond that which was reported and approved at the time of hiring;

(C) The attorney shall make every effort, within the rules of professional responsibility, to bring all outside matters to a prompt conclusion and shall provide regular updates on the resolution of such matters to his or her supervisor;

(D) The attorney is not permitted to utilize MSPD time, resources, or staff assistance for non-MSPD cases; and

(E) If the attorney is required to appear in court on an outside matter, the attorney should make clear to the court that the attor-

ney is appearing, not as a public defender, but in his or her private capacity as part of winding down the attorney's previous private practice.

(2) Moving from Contract Attorney to Public Defense. Attorneys newly hired by MSPD who have existing public defender cases taken on contract with MSPD may be authorized or required to continue providing representation in such contract cases past their public defender start date, within the following parameters:

(A) The contract cases in question do not create a conflict for the office the attorney is joining;

(B) Prior to beginning employment, the new hire and the director, or the director's designee, shall agree, in writing, upon the contract cases to be retained and the scope of the work remaining to be done on each;

(C) The attorney is expected to work the minimum number of required hours each pay period on non-contract MSPD matters or obtain supervisory approval to take annual or unpaid leave. If the attorney has already been compensated by MSPD for providing representation in these contract cases, the attorney shall not also count time spent working on contract cases as public defender time worked, except as set out in subsection (2)(D) below;

(D) In the event a contract case retained by a new hire turns out to be unusually complex for its case type or proceeds to trial or post-conviction evidentiary hearing after the attorney's start date as a public defender, the attorney shall either, at the discretion of the director or the director's designee: 1) receive the additional compensation generally paid to contract attorneys in such cases; or 2) have the additional time that is required to be spent on the case counted as MSPD work time; and

(E) Because the client in these contract cases is a client of MSPD, the attorney may utilize MSPD resources and staff to assist in the case.

(3) Unpaid Outside Representation. Attorneys currently employed by MSPD may seek permission from their immediate supervisors to provide unpaid representation in minor legal matters that will not interfere or conflict with their work on MSPD matters. If permission is granted, the following parameters must be met:

(A) The representation must be unpaid;

(B) Both the attorney's request and the supervisor's permission must be in writing and in compliance with guidelines established by the director or the director's designee;

(C) The attorney is expected to work the

minimum number of required hours each pay period on MSPD matters or obtain supervisory approval to take annual or unpaid leave. Time spent on an outside matter may not be counted as hours worked;

(D) The attorney is not permitted to utilize MSPD resources or staff assistance for non-MSPD cases; and

(E) If the outside matter involves a court appearance, the attorney should make clear to the court that the attorney is appearing, not as a public defender, but in a private and unpaid capacity.

AUTHORITY: sections 600.017(10) and 600.021, RSMo 2000. Original rule filed Sept. 11, 2015, effective March 30, 2016.*

**Original authority: 600.017, RSMo 1982 and 600.021, RSMo 1982, amended 1986.*