



New York State Office of

Indigent Legal Services

Standards for the Provision of Mandated Representation in Trial Level Cases

Updated May 2026

These standards are promulgated by the Office of Indigent Legal Services (ILS), in consultation with the Indigent Legal Services Board, in fulfillment of its responsibility under Executive Law § 832(3)(d) to establish standards and criteria for the provision of legal services mandated and provided in each county pursuant to County Law Article 18-B. They were approved by the Board on June 8, 2012 to go into effect on July 1, 2012, and were initially titled *Standards and Criteria for the Provision of Mandated Representation in Cases Involving a Conflict of Interest*. Later in 2012, the ILS Board approved these standards to apply to all trial level cases, effective 2013. Accordingly, these standards are being re-titled as *Standards for the Provision of Mandated Representation in Trial Level Cases*.

In further fulfillment of its responsibilities under Executive Law § 832, ILS will assist counties in developing plans to effectively use ILS funding to improve the quality of mandated representation consistent with these standards. ILS will also rely upon these standards, in addition to our 2019 *Standards for Establishing and Administering Assigned Counsel Programs*, in considering approval of conflict defender plans submitted by counties pursuant to County Law § 722(3)(b) and (c).

In developing these standards, ILS has hewed closely to the New York State Bar Association, Committee on Mandated Representation, *2021 Revised Standards for Providing Mandated Representation* (NYSBA Standards). Originally developed in 2005, the NYSBA Standards have been updated and revised several times, most recently in 2021. ILS also looks to the American Bar Association's *Ten Principles for a Public Defense Delivery System*, Revised August 2023 (Ten Principles), as well as the American Bar Association, *Criminal Justice Standards*, 2009 (ABA Standards).

Counties must ensure, through their plans for providing public defense representation and other provisions, that attorneys and programs providing mandated legal services in trial level cases:

1. Demonstrate a commitment to quality representation of every client and are free from political and other influences that erode the ability to provide quality representation.¹ The selection of chief defenders and their staff shall be made solely on the basis of merit.²
2. Maintain, by practices that include the ability to decline or withdraw from cases, manageable workloads that ensure the capacity to provide quality representation.³
3. Have access to and use investigative services as needed to provide quality representation, without restriction to a particular type or level of case.⁴
4. Have access to and use as needed the assistance of experts in a variety of fields including mental health, medicine, science, forensics, social work, sentencing advocacy, interpretation/translation, and others.⁵
5. Provide representation for every eligible person at the earliest possible time and begin advocating for every client without delay, including while client eligibility is being determined or verified. Provide continuous representation by the same attorney, unless the needs of the client require otherwise, in all relevant proceedings. Lawyers should have the time and resources needed to ensure that they:
 - a. are present at arraignment or first appearance, or earlier when an individual has invoked a constitutional or statutory right to counsel in an investigatory stage of a case, and at every stage thereafter, and in all other proceedings for which a right to counsel exists;
 - b. interview the client as soon as possible, and in a setting in which client confidentiality can be maintained and a client/attorney relationship can be established;

¹ NYSBA Standard A-1; Ten Principles, Principle 1

² NYSBA Standard A-2; Ten Principles, Principle 1

³ NYSBA Standards G-1 through G-6; Ten Principles, Principle 3; ABA Standard 4-1.8.

⁴ NYSBA Standards H-1 through H-8; Ten Principles, Principle 9; ABA Standard 4-4.1.

⁵ NYSBA Standards H-1 through H-8; Ten Principles, Principle 9; ABA Standard 4-4.1(d).

- c. review initial charging documents or petitions as soon as possible, and challenge inadequacies in documents and proceedings unless doing so would harm the client;
 - d. zealously advocate for pretrial release and/or diversion and for dismissal of proceedings whenever warranted;
 - e. aggressively pursue discovery in individual cases and seek to secure improved policies for the timely disclosure of information to which their clients are entitled; and
 - f. immediately begin preparations for trial and sentencing/disposition.⁶
6. Have the ability to spend sufficient time with clients to establish a meaningful client/attorney relationship; to communicate with family or friends of the client and with professionals and service providers; to inform the client regularly as to the progress of the case; to provide copies of documents prepared or received by the attorney; and to provide the client with the opportunity to make an intelligent and informed decision where a decision is to be made by the client.⁷
7. Operate under quality control procedures that:
- a. Require meaningful attorney qualifications for representing public defense clients and match attorneys' ability, training, and experience to the complexity of clients' cases;
 - b. Provide for meaningful, periodic, and ongoing evaluation of the work of attorneys and others according to objective criteria;
 - c. Include mechanisms for obtaining, evaluating, and responding to comments and complaints from clients and the client community to improve the quality of services; and
 - d. Require entry-level and continuing training relevant to the types of cases in which mandated representation is offered.⁸

⁶ NYSBA Standards B-1 through B-4, C-5; Ten Principles, Principles 6 and 8; ABA Standards 4-2.3, 4-3.2, 4-3.3.

⁷ NYSBA Standard I-3; ABA Standards 4-3.1, 4-3.3, 4-3.9, 4-5.1.

⁸ NYSBA Standards E, F, and J; Ten Principles, Principle 7; ABA Standard 4-2.1.

8. Investigate potential consequences that can arise from cases, advise each client about those consequences, and advocate for case dispositions that limit negative consequences as much as possible.⁹
9. Provide well-prepared sentencing advocacy in criminal cases, including cases in which a plea bargain exists, and well-prepared dispositional advocacy in parent representation cases.¹⁰
10. Have and use adequate resources and procedures to:
 - a. maintain appropriate law office facilities, including research capability, data collection and evaluation, means by which incarcerated clients may have confidential communication with counsel, and systems for quality control and other management responsibilities, including case management systems;
 - b. receive or provide compensation commensurate with that of opposing counsel and opposing counsel's office; and
 - c. seek additional resources whenever client needs require.¹¹

Please note that in addition to these standards, ILS has also published the following standards of representation:

- *Standards for Parental Representation in State Intervention Matters* (2015)
- *Appellate Standards and Best Practices* (2015; revised 2023)
- *Standards for Establishing and Administering Assigned Counsel Programs* (2019)

⁹ NYSBA Standards I, General Performance Standards at I-7(e) and I-9(e); Ten Principles, Principle 9; ABA Standards 4-5.4, 5-5.5.

¹⁰ NYSBA Standards I-7(i) and I-9; ABA Standard 4-8.3.

¹¹ NYSBA Standard H. See also Ten Principles, Principle 2; ABA Standard 4-4.1(e).