

A defense attorney's "success cannot be easily quantified. Rather, the 'win' is often in the fight itself. But [defense attorneys] can be evaluated on fair, pre-established competencies and goals that embody the ideals of superior client representation and leadership." Office of the Ohio Defender, *Performance Reviews: A Guide for Public Defenders*, p 1.

Core Competencies

Advocacy

"A lawyer should act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf." MRPC 1.3, comment. Advocacy is paramount to effective representation.

Meets Expectations	Does not Meet Expectations
Writes and speaks clearly, concisely, and persuasively.	Does not communicate clearly, concisely, and persuasively.
Demonstrates competency in legal research and a thorough knowledge of law through arguments and motions.	Fails to demonstrate competency in legal research and a thorough knowledge of law through arguments and motions.
Appropriately advocates for client during all stages of the proceeding.	Does not appropriately advocate for client during every stage of the proceeding.
Works in an efficient manner.	Bills for more time than an attorney of like experience would bill under similar circumstances.
Considers and counsels clients about collateral consequences.	Fails to consider or counsel clients about collateral consequences.

Case Development

"[C]ounsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Strickland v. Washington*, 466 U.S. 668, 691 (1984). Effective case development requires that counsel be thoroughly familiar with the facts and evidence. Sometimes effective case development requires counsel to retain the services of other professionals like experts and investigators.

Meets Expectations	Does not Meet Expectations
Counsel attempts to uncover evidence about their cases outside of what is available through discovery.	Counsel fails to look for evidence about their cases outside of what is available through discovery.
When appropriate, counsel engages experts and investigators in their cases as early as possible.	Counsel fails to engage experts and investigators when appropriate or fails to engage them in a timely manner.
Counsel can explain why an expert or investigator was not retained for a particular case.	Counsel fails to assess whether an expert or investigator is appropriate for every case.

Client Relations

“A strong attorney-client relationship will help the lawyer foster a sense of loyalty and fidelity to the client and will allow the client to develop respect and trust for the advocate.” Rapping, *You Can’t Build on Shaky Ground: Laying the Foundation for Indigent Defense Reform Through Values-Based Recruitment, Training, and Mentoring*, 3 Harvard L & Policy Rev 161, 171 (2009). Every person charged with a crime in this system who cannot afford to hire an attorney must receive competent, caring, and effective legal representation. Having a strong attorney-client relationship facilitates these aims.

Meets Expectations	Does not Meet Expectations
Treats clients with respect and in a professional manner.	Does not consistently treat clients with respect and in a professional manner.
Responsive to client requests and maintains regular contact with clients.	Does not consistently respond to client requests or fails to maintain regular contact with clients.
Complies with MIDC Standard 2.	Does not comply with MIDC Standard 2.

Case Management

“In all professional functions a lawyer should be competent, prompt and diligent.” MRPC 1.0, preamble. This is impossible to accomplish without effective case management. “Case management” refers to things like file maintenance, scheduling, and deadline tracking.

Meets Expectations	Does not Meet Expectations
Maintains organized case files—physical or electronic—that document case activity and client contacts.	Case files are disorganized, missing documents, and have incomplete information about case activity or client contacts.
Accurately schedules appointments, events, and deadlines. Timely attends all court proceedings. Meets deadlines.	Fails to properly schedule all appointments, events, and deadlines. Does not timely attend all court proceedings. Does not meet all deadlines.
Submits properly completed invoices that accurately reflects the time spent on each case.	Submits invoices that are incomplete or incorrect and/or that do not accurately reflect the time spent on each case.

Communication

There is a correlation between strong oral and written communication skills and high-quality criminal trial court representation. Communication is effective when it is clear, civil, and timely. Sometimes clarity requires the use of interpreters or other accommodations. Counsel should also be mindful of culture's significant impact on communication and understanding. "Through our invisible cultural lens, we judge people to be truthful, rude, intelligent or superstitious based on the attributions we make about the meaning of their behavior." Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 Clinical L. Rev. 33, 40 (2001). Accordingly, effective communication can also require cultural competence.

Meets Expectations	Does not Meet Expectations
Effectively communicates with judges, prosecutors, court staff, witnesses, IDSO staff, and other individuals related to a case.	Fails to effectively communicate with judges, prosecutors, court staff, witnesses, IDSO staff, and other individuals related to a case.
Complies with Guideline 10.1.	Does not comply with Guideline 10.1.
Complies with Guideline 10.2.	Does not comply with Guideline 10.2.

Training

To do your best work for your clients, it is important that you know the law (including potential defenses), understand scientific evidence, and effectively utilize technology. As you know, the Michigan Indigent Defense Commission requires

experienced attorneys to complete 12 hours of continuing legal education a year. You should take courses that will help you meet the three aims above and relate to the individualized needs of your caseload.

Properly trained attorneys will demonstrate through their advocacy a strong understanding of relevant state and federal criminal law and recent changes in the law, knowledge of the scientific principles relevant to their cases, and a familiarity with relevant technology.

Meets Expectations	Does not Meet Expectations
Fulfills annual CLE requirement and takes courses relevant to caseload.	Does not fulfill annual CLE requirements or fails to take courses relevant to caseload.
Stays abreast of caselaw and emerging legal trends and incorporates them into advocacy.	Does not stay abreast of current law. Fails to demonstrate knowledge of law in advocacy.
Demonstrates familiarity with the technologies that are reasonably necessary to provide competent representation and to maintain a law practice.	Cannot competently use the technologies that are reasonably necessary to provide competent representation and to maintain a law practice.

Some criteria taken from, or inspired by, Office of the Ohio Defender, *Performance Reviews: A Guide for Public Defenders*.