

**STANDARDS FOR QUALIFICATION OF ATTORNEYS FOR APPOINTMENT TO DEATH PENALTY
CASES PURSUANT TO ARTICLE 26.052, TEXAS CODE OF CRIMINAL PROCEDURE, FOR THE
THIRD ADMINISTRATIVE JUDICIAL REGION**

Effective January 1, 2013

LEAD TRIAL COUNSEL

An attorney appointed as lead trial counsel in the trial of a death penalty case must:

1. Be a member in good standing of the State Bar of Texas.
2. Exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.
3. Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case nor filed documents admitting that the attorney has rendered ineffective assistance of counsel in any criminal case unless, at the request of the attorney, the Local Selection Committee determines that the conduct underlying the finding no longer accurately reflects the attorney's current ability to provide effective representation.
4. Have at least 8 years of experience in criminal litigation.
5. Have tried to verdict as lead defense counsel in a significant number of felony cases including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies.
6. Have trial experience in:
 - a. The use of and challenges to mental health or forensic expert witnesses; and
 - b. Investigating and presenting mitigating evidence at the penal phase of a death penalty trial.
7. Have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

SECOND CHAIR

An attorney appointed as second chair in the trial of a death penalty case must:

1. Be licensed to have permission to practice in the jurisdiction.
2. Have at least three years of litigation experience in criminal defense.
3. Have experience as lead or co-counsel in jury trials of serious and complex cases that were tried to completion, or have comparable appellate or post-conviction experience.
4. Be familiar with the requisite court systems.
5. Have significant and continuous training in death penalty litigation.
6. Have demonstrated proficiency to commitment to quality representation.

LEAD APPELLATE COUNSEL

An attorney appointed as lead appellate counsel in the trial of a death penalty case must:

1. Be a member in good standing of the State Bar of Texas.
2. Exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.
3. Have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any criminal case nor filed documents admitting that the attorney has rendered ineffective assistance of counsel in any criminal case, the request of the attorney, the Local Selection Committee determines that the conduct underlying the finding no longer accurately reflects the attorney's current ability to provide effective representation.
4. Have at least five years of appellate experience in criminal prosecution or defense with the last three years in criminal defense.
5. Have trial experience in:
 - a. The use of and challenges to mental health or forensic expert witnesses; and
 - b. Investigating and presenting mitigating evidence at the penal phase of a death penalty trial.
6. Have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.
7. Have substantial experience as lead counsel in appeals of serious and complex cases which have been tried to a verdict, including murder cases.
8. Be experienced as lead counsel or second chair or appellate counsel in one case in which the death penalty was sought.

ADDITIONAL COUNSEL

In order to promote quality representation and to expand and maintain a pool of qualified attorneys, nothing in these standards shall be construed to preclude the appointment of additional compensated or pro bono counsel who may, under supervision of lead counsel and any second chair counsel, serve as additional trial counsel in any death penalty case; or, under the supervision of appellate counsel, or by serving as additional counsel on appeal in any death penalty case. Attorneys applying to a court to serve in such a capacity are exempt from compliance with these standards. Appointment of additional counsel pursuant to this provision is wholly within the discretion of the trial court.

PROCEDURE FOR APPLICATION

An applicant for inclusion on a list shall complete the application form promulgated by the committee and attach the applicant's resume or professional vitae to the application.

An application for inclusion on a list shall be submitted for approval first to the local administrative district judge of the jurisdiction within which the applicant primarily practices. If the local administrative district judge certifies the applicant for inclusion on the appropriate list, the local administrative district judge shall submit the approved application to the Presiding Judge of the Third Administrative Judicial Region of Texas who will submit it to the Chair of the Capital Attorney Selection Committee for the Third Judicial Region of Texas.

The Chair of the Capital Attorney Selection Committee for the Third Judicial Region of Texas shall submit the name of the applicant, a copy of the applicant's application and the certification by the local administrative district judge to the committee for approval. An applicant shall be included on an appropriate list by the vote of a majority of the members of the committee. The applicant will receive a certification of approval from the Chair of the Capital Attorney Selection Committee for the Third Judicial Region of Texas.

PERIODIC REVIEW BY COMMITTEE

Placement on any list is for a period beginning January 15 or upon approval of an application, whichever is later, and ending December 31 of each year or until the new list is approved by the committee, whichever is later. On or before December 1 of each year, an attorney placed on the list of attorneys qualified for appointment in death penalty cases must fill out and forward an Application to be Maintained on the list to which the attorney has been approved. This application shall be sent via fax, hand delivery, e-mail or mail to the Chair (as named below) of the Capital Attorney Selection Committee for the Third Judicial Region of Texas certifying that said attorney has successfully completed the minimum educational requirements as set forth below, within a twelve-month period immediately preceding the request for recertification.

Minimum Educational Requirements

Every lawyer licensed by the State of Texas shall complete fifteen (15) hours of continuing legal education during each compliance year as provided by the MCLE Rules of the State Bar of Texas.

DEATH PENALTY LEGAL EDUCATION: Attorneys who have been approved for the 3rd Region Capital Lead Trial and Lead Appellate Attorney List must obtain, during each compliance year, five (5) hours of approved accredited hours pertaining to Death Penalty Legal Education, (two) 2 of those hours may be devoted to self-study.

CARRYOVER HOURS: Accredited continuing legal education during any compliance year in excess of the minimum five (5) hour requirement for each year may be applied to the

following compliance year's requirement. This carryover provision applies to courses taken during the preceding year only.

CREDIT FOR ACTIVE REPRESENTATION: Attorneys who have tried or appealed a Capital Case during the reporting year may claim five (5) hours of self-study. The attorney shall provide the style and cause number of the case and county in which the case was originally indicted.

The committee shall remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

The local selection committee shall annually review the list of attorneys posted to ensure that each listed attorney satisfies the foregoing requirements.

If at any time prior to recertification an attorney no longer complies with one or more requirements to be maintained on a list for which the attorney has previously qualified. the attorney shall report in writing the attorney's noncompliance to the Presiding Judge of the Third Region of the State of Texas or the Committee Chair for the Capital Attorney Selection Committee for the Third Judicial Region of the State of Texas, whereupon the attorney shall be removed by the committee from any list for which the attorney no longer qualifies. If for any reason the attorney wants to be removed from one of the lists, the attorney shall notify in writing the Committee Chair for the Capital Selection Committee for the Third Judicial Region of the State of Texas.

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