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Eviction Defense Best Practices Policy

This policy offers guidance on the best practice standard that all Eviction Defense Appointed Counsel Attorneys should be following.

Policy Overview: The Eviction Defense Appointed Counsel Program has a mandate to provide full-service and zealous representation. OCLA is charged with the administration and oversight of that program. Per the Eviction Defense Appointed Counsel Program Contract, all Appointed Counsel attorneys are required to complete the basic RTC training curriculum and an additional 5 hours of training per year. These trainings are a crucial part of ensuring zealous advocacy for tenants.

Zealous Advocacy Guidelines¹:

1. Internal System and Procedures

- a. All contractors should have procedures on the maintenance of client files to assure that all material facts and communications on cases are recorded and that there are clear notations of the work done and planned.
- b. All contractors should have a case handling system to ensure that deadlines are met and to identify conflicts of interest as early as possible to allow for sufficient time for the defendant to be referred to another RTC provider.
- c. All contractors should have a process for assigning eligible cases to ensure clients receive timely representation and that OCLA's caseload guidance is followed.
- d. All contractors should have policies and procedures in place for conclusion of representation and case closing that ensures clients have the documentation and information needed to proceed without their attorney.
- e. All contractors should have a policy and procedure for individuals to complain about the quality and manner of services offered, or contest a denial of service, including any reporting obligations under the Rules of Professional Conduct.

2. Quality Assurance in producing high-quality legal work

- a. All contractors should ensure the availability of adequate resources for appropriate legal research and factual investigation.

¹ OCLA reviewed the Performance Standards for Legal Aid in the State of Washington, Rules of Professional Conduct, the Washington State Superior Court Civil Rules, and American Bar Association Standards for the Provision of Civil Legal Aid to develop this policy and encourage providers to utilize these resources in addition to this guidance.

- b. All appointed counsel attorneys should have designated attorney supervision and mentoring to ensure clients receive proper representation and the advocate can develop professionally. The supervision and mentoring should be based on the individual appointed counsel attorney's years of experience.
- c. If an appointed counsel attorney has less than 1 year of experience, their caseload should be monitored and should be less than a more experienced appointed counsel attorney.
- d. All appointed counsel attorneys should have regular caseload reviews to ensure caseload guidance is followed and the case is proceeding. These reviews should allow for strategy discussion, deadline reviews, and ensuring client interests are protected.
- e. All appointed counsel attorneys should attend trainings to continue their knowledge of the substantive laws, litigation skills, and overall professional development.
- f. All contractors should utilize OCLA as needed to ensure litigation expenses are funded and consult on cases with other Eviction Defense Appointed Counsel contractors or the statewide Housing Task Force when appropriate.
- g. All contractors should ensure appointed counsel attorneys have access to and review the OCLA provider memos, policies, and guidelines.
- h. All contractors should make internal assessments and/or referrals for cases to be taken on appeal, when appropriate.
- i. All appointed counsel attorneys should utilize negotiated agreements, motion practice, and trial practice in the pursuit of client interests.
- j. All contractors to fully utilize the protections under the Residential Landlord Tenant Act, Washington State caselaw, federal housing protections, and social service resources to ensure client goals are achieved.

3. Client Centered Representation

- a. All contractors should protect information relating to representation of a client and information relating to prospective representation in accordance with their ethical and legal responsibilities.
- b. All contractors should ensure that all communities with Limited English Proficiency (LEP) receive systemic and fair treatment during their representation. All contractors will work to ensure services are provided equitably and without language barriers.
- c. All contractors should make diligent efforts to communicate with clients through the client's preferred communication method and in the ways that are most accessible to the client.
- d. All contractors should serve client in a culturally competent and trauma-informed manner.
- e. All contractors should discuss outcome goals with clients and thoroughly explain the UDA process and steps to achieve the client's desired outcome. If a client's desired outcome is not possible, the appointed counsel attorney will explain to the client. The appointed counsel attorney will not make decisions for the client



without the client's explicit consent and the appointed counsel attorney will not allow their own personal opinions on the case to affect their representation. This requirement shall be read in conjunction with RPC 1.2.

4. Commitment to Race Equity Justice Initiatives

- a. All contractors should be familiar with the Washington Race Equity and Justice Initiative (REJI) Acknowledgments and Commitments along with its Race Equity and Justice Statement of Purpose.
- b. All contractors should engage in REJI and pro-equity training each year.
- c. All contractors should review internal policies and procedures to ensure all individuals served are treated fairly and without prejudice.
- d. All contractors should work to recruit and retain a high-quality, diverse, and client-sensitive team.

The above guidelines are required to ensure zealous representation is possible on every appointed counsel case. All contractors should ensure they are aware of and following the Rules of Professional Conduct and Washington State Superior Court Civil Rules.

Questions and Concerns: For any questions or concerns regarding this policy, please contact evictiondefense@ocla.wa.gov.