

Chapter PD 1

CERTIFICATION

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Note: Chapter SPD 1 was renumbered chapter PD 1 under s. 13.93 (2m) (b) 1., Stats., Register, July, 1995, No. 475.

PD 1.01 Annual review. (1) The state public defender shall annually notify each active member of the state bar of Wisconsin of the procedure for applying for certification under the provisions of s. 977.08, Stats. Publication of a notice in the publication of the state bar of Wisconsin constitutes notice.

(2) The state public defender shall annually update its certification list under s. 977.08, Stats., regarding the availability of private attorneys to be appointed to state public defender matters.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; r. and recr. (1) and (2), r. (3), Register, November, 1984, No. 347, eff. 12-1-84.

PD 1.02 Certification of newly admitted attorneys.

The state public defender shall provide the Wisconsin supreme court and the state bar of Wisconsin with materials to insure that every person admitted to the state bar after January 1, 1978, is provided with information for applying for certification under s. 977.08, Stats.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. Register, November, 1984, No. 347, eff. 12-1-84.

PD 1.03 Certification application and decisions.

(1) **APPLICATION FORM.** The state public defender shall prepare an application form to be completed by attorneys seeking certification or recertification as provided in s. 977.08 (3), Stats. The state public defender shall notify in writing each attorney who has submitted an application of the county or counties and the cases for which the attorney is certified to accept appointments, if any.

Note: Certification application forms and information are published as ch. PD 1 Appendix A to E and are available on the public defender website, www.wisspd.org, or from the Assigned Counsel Division, Office of the State Public Defender, P.O. Box 7923, Madison, WI 53707-7923, phone 608-266-0087. The link to the current certification application is: <http://www.wisspd.org/html/acd/certform.pdf>.

(2) **PUBLIC DEFENDER'S CERTIFICATION DECISION.** (a) For cause, the state public defender may take any of the following actions regarding an attorney's certification status:

1. Deny an application for certification or recertification.
2. Return an attorney to provisional certification under s. PD 1.037.
3. Exclude an attorney from any certification list in s. PD 1.04.
4. Suspend an attorney's certification status under sub. (3).
5. Decertify an attorney under sub. (4).
6. Caution an attorney.
7. Impose conditions upon an attorney's continued certification.
8. Take any other action that is consistent with the best interests of clients, the interests of justice, or the interests of the state public defender.

(b) The state public defender shall inform the attorney in writing of the reasons for the adverse certification decision and the manner by which the attorney may appeal the decision.

(3) **SUSPENSION.** (a) The state public defender may suspend the attorney from any or all of the certification lists in s. PD 1.04 under any of the following circumstances:

1. Pending the outcome of the investigation into the attorney's performance; an allegation of fraudulent, unreasonable or inaccurate billing practices or other misconduct; or of failure to comply with any provision of this chapter.
2. In response to a request for decertification.

(b) The suspension under par. (a) may not exceed 120 days, exclusive of any time attributable to the lack of cooperation from the attorney under investigation. The state public defender may extend the suspension by a period not to exceed an additional 30 days in order to complete the investigation. Suspensions that exceed these time limits may be appealed under s. PD 1.05.

(4) **DECERTIFICATION.** Any interested party may request in writing that an attorney, previously certified to accept cases from the state public defender, be decertified for cause. Upon receipt of a request, the state public defender shall conduct an investigation. Upon a finding of cause, the state public defender may decertify the attorney and exclude the attorney from any or all of the certification lists in s. PD 1.04. An attorney seeking reinstatement to a certification list following decertification shall submit an application as provided in sub. (1).

(5) **DISCRETIONARY CONSIDERATIONS.** The state public defender's exercise of discretion and determination whether cause exists to take any action under this chapter may include consideration of any of the following factors:

(a) In this or any other jurisdiction, the attorney is or has been disbarred, has or has had his or her license to practice law suspended, or has surrendered his or her license to practice law.

(b) The attorney fails or has failed to meet the education or experience requirements under this chapter.

(c) The attorney's conduct while employed by the state public defender, another law office or another governmental agency in Wisconsin or in another jurisdiction raises a concern about the attorney's character, performance, ability or behavior.

(d) The attorney engages or has engaged in fraudulent, unreasonable or inaccurate billing to the state public defender or any other governmental agency or organization.

(e) The attorney fails or has failed to meet minimum attorney performance standards adopted by the state public defender or to comply with the supreme court rules of professional conduct for attorneys.

(f) The attorney fails or has failed to follow the state public defender's procedures for billing or for approval of expenses.

(g) The attorney is or has been the subject of a formal complaint filed by the office of lawyer regulation with the supreme court or filed with an organization that is responsible for enforcement of lawyer regulation in any other jurisdiction.

(h) The attorney is or has been the subject of a finding of dishonesty or incapacity by the client protection fund in an award to a claimant.

(i) The attorney is convicted of any crime that reflects adversely on the attorney's honesty, trustworthiness or fitness as a lawyer.

(j) The attorney engages in conduct contrary to the interests of clients, the interests of justice, or the interests of the state public defender.

(k) The attorney is barred by statute from engaging in criminal or other public defender case representation.

(L) The attorney fails or has failed to cooperate with an investigation under this chapter.

(m) The conduct of an attorney that formed the basis for voluntary removal or for an investigation or decision regarding the attorney's license to practice law, certification to accept appointments, or billing practices, in Wisconsin or in any other jurisdiction continues to raise a concern about the attorney's character, performance, ability or behavior.

(n) The attorney requests to be removed from any or all certification lists at a time when the attorney is the subject of a pending inquiry or investigation concerning performance or billing practices.

(o) The attorney fails to comply with this chapter.

(p) The state public defender learns of any other information that raises a concern about the attorney's character, performance, ability or behavior.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; CR 09-067: am. (title), renum. to be (1) and am., cr. (2) to (5) Register June 2010 No. 654, eff. 7-1-10.

PD 1.035 Requirements for certification. In order to obtain and retain certification under this chapter, an attorney shall satisfy all of the following requirements:

(1) APPLICATION. The attorney shall submit an application under s. PD 1.03 (1).

(2) LICENSE TO PRACTICE. The attorney shall be licensed to practice law in Wisconsin and shall be a member in good standing of the State Bar of Wisconsin.

(3) RESIDENCE. (a) The attorney shall reside in or maintain his or her principal office in Wisconsin. A post office box in Wisconsin does not constitute a residence or a principal office in Wisconsin.

(b) An attorney may be certified for trial division cases in only those counties in which he or she resides or maintains his or her principal office, except that in counties with less than ten attorneys on any certification list, an attorney residing or maintaining his or her principal office in one or more adjacent counties may also be certified.

(c) Notwithstanding pars. (a) and (b), the state public defender may, on a case-by-case basis, certify an attorney to handle a case if such certification is necessary for effective client representation. Relevant considerations include, but are not limited to, case-load, availability of other counsel, proximity to the court, and cost-effectiveness.

(4) CONTINUING LEGAL EDUCATION. (a) The attorney shall complete six credits of continuing legal education each calendar year in courses approved by the state public defender. This requirement shall apply beginning in the first full calendar year following an attorney's graduation from law school.

(b) The attorney shall report compliance with par. (a) under the procedures established by the state public defender. The state public defender shall calculate continuing education credits in the same manner as the board of bar examiners.

(c) The state public defender shall offer training for attorneys seeking certification under this chapter. As used in s. 977.05 (5) (e), Stats., relating to sponsoring conferences and training, "sponsor" means to use state public defender resources to produce and promote state public defender conferences and training programs

and "tuition" means all revenue realized from state public defender conferences and training programs and materials.

(5) COOPERATION WITH INQUIRIES. (a) An attorney shall cooperate with inquiries from the state public defender regarding the status of appointed cases, and regarding performance or billing in appointed cases.

(b) An attorney who receives a written request to provide a response shall respond in writing and within the deadlines presented with the request. An attorney who fails to do so may be suspended from further appointments under s. PD 1.03 (3) until an adequate response is provided.

History: Cr. Register, July, 1997, No. 499, eff. 8-1-97; CR 09-067: r. and recr. Register June 2010 No. 654, eff. 7-1-10.

PD 1.037 Provisional certification. (1) APPLICABILITY. The state public defender may provisionally certify an attorney. All attorneys who have not been previously certified and all attorneys whose certification status is reinstated shall be provisionally certified under this section.

(2) REVIEW. (a) After one year of provisional certification, the state public defender shall review the attorney's performance and determine the attorney's future certification status. The public defender may continue provisional certification, grant non-provisional certification, or discontinue provisional certification and exclude the attorney from any or all certification lists.

(b) The state public defender may require a provisionally certified attorney to provide a letter from at least one judge supporting non-provisional certification.

(c) The state public defender's determination may be based upon, but is not limited to: a review of briefs and client files; billing records; client communications; court records; telephone or personal conferences; and recommendations of judges and attorneys.

(d) The state public defender's determination shall consider the extent to which the provisionally certified attorney has satisfied the supreme court rules of professional conduct for attorneys and the minimum attorney performance standards adopted by the state public defender.

(3) CONTINUATION. If provisional certification is continued, the attorney's performance shall be reviewed again under sub. (2) after a period of time set by the state public defender, not to exceed one year.

(4) APPEAL. An attorney may appeal the state public defender's decision to discontinue provisional certification and to exclude the attorney from any or all certification lists as provided in s. PD 1.05.

(5) PROVISIONAL CERTIFICATION IN LIEU OF DECERTIFICATION. The state public defender may change an attorney's certification status to provisional certification in lieu of pursuing decertification as provided in s. PD 1.03 (4).

History: CR 09-067: cr. Register June 2010 No. 654, eff. 7-1-10.

PD 1.04 Certification lists. An attorney may be placed on the list to accept an appointment to represent state public defender clients in the following case types if the attorney requests appointments in the case type, satisfies the requirements of s. PD 1.035, and satisfies the following additional criteria:

(1) MISDEMEANORS. For misdemeanor cases, no additional criteria.

(2) PATERNITY CASES. For paternity cases, no additional criteria.

(3) FELONIES. (a) *Class G, H or I.* For a class G to I felony case, the attorney has satisfied both of the following criteria within the five years immediately preceding the application for certification:

1. Been trial counsel, alone or with other trial counsel.

2. Has litigated a significant portion of one completed jury trial, two trials to a court of record, or four testimonial hearings

before a court of record, but not including a proceeding to revoke probation, parole or extended supervision.

(b) *Class D, E and F.* For a class D to F felony case, the attorney has satisfied either of the following criteria within the five years immediately preceding the application for certification:

1. Been sole trial counsel in at least one felony case tried to a jury to final resolution.

2. Been trial counsel, alone or with another attorney, and litigated a significant portion of three civil or criminal cases tried to a jury to final resolution.

(c) *Class B and C.* For a class B or C felony case, the attorney has been sole trial counsel in at least four cases tried to a jury to final resolution, at least one of which was a felony, within the five years immediately preceding the application for certification.

(d) *Class A.* For a class A felony case, the attorney has satisfied all of the following criteria:

1. The attorney maintained a significant portion of his or her practice in criminal law within the five years immediately preceding the application for certification.

2. The attorney has been sole or lead trial counsel in at least two class A to D felony cases tried to a jury to final resolution within the five years immediately preceding the application for certification.

3. The attorney submitted to peer review, including reference checks with other criminal defense attorneys, prosecutors, judges and public defender staff.

4. The attorney has submitted a writing sample, consisting of a court memorandum or brief concerning criminal law issues that was written within the two years immediately preceding the application for certification, which was reviewed and approved by the state public defender.

5. The attorney has submitted any requested information relevant to a determination of the attorney's qualifications.

(4) **UNCLASSIFIED CRIMES.** For a case alleging an unclassified crime, the attorney satisfies the certification criteria for the case type with a corresponding maximum penalty.

(5) **WRITS AND EXTRADITIONS.** For a writ or extradition case, the attorney satisfies the certification criteria for the case type alleged in the extradition request or that is the subject of the writ.

(6) **CHAPTER 980 SEXUALLY VIOLENT PERSON COMMITMENTS.** For a case filed under ch. 980, Stats., the attorney has been sole trial counsel in at least four cases tried to a jury to final resolution, at least one of which was a felony, within the five years immediately preceding the application for certification.

(7) **CHILDREN'S AND JUVENILE COURT CASES ALLEGING BEHAVIOR THAT COULD BE PROSECUTED AS A MISDEMEANOR.** For a case filed under ch. 48 or 938, Stats., alleging behavior that could be prosecuted as a misdemeanor in criminal court, the attorney has satisfied either of the following criteria:

(a) Completed four credits of state public defender approved legal education in ch. 48 or 938, Stats., cases.

(b) Agreed in writing to complete four credits of state public defender approved legal education in ch. 48 or 938, Stats., cases during the first year of his or her provisional certification under s. PD 1.037.

(8) **JUVENILE COURT OR JUVENILE WAIVER CASES ALLEGING BEHAVIOR THAT COULD BE PROSECUTED AS A CLASS E TO I FELONY.** For a case filed under ch. 938 in which the most serious allegation could be a class E to I felony if prosecuted in criminal court, or a case seeking to waive a juvenile into criminal court for behavior that could be a class E to I felony in criminal court, the attorney has satisfied the criteria in sub. (3) (a) and is certified for cases under sub. (7).

(9) **JUVENILE COURT OR JUVENILE WAIVER CASES ALLEGING BEHAVIOR THAT COULD BE PROSECUTED AS A CLASS B TO D FELONY.** For a case filed under ch. 938 in which the most serious allegation

could be a class B to D felony if prosecuted in criminal court, or a case seeking to waive a juvenile into criminal court for behavior that could be a class B to D felony in criminal court, the attorney has satisfied the criteria in sub. (3) (b) and has been sole trial counsel in at least three trials to the court in ch. 938, Stats., cases in which the most serious allegation would be a felony if prosecuted in criminal court.

(10) **TERMINATION OF PARENTAL RIGHTS CASES.** For a termination of parental rights case under ch. 48, Stats., the attorney has satisfied all of the following criteria:

(a) Satisfied the criteria in sub. (3) (a).

(b) Completed four credits of state public defender approved legal education pertaining to ch. 48, Stats., cases.

(c) Completed four credits of state public defender approved legal education pertaining to termination of parental rights cases.

(11) **CHAPTER 51 OR 55 COMMITMENT CASES.** For a case that is filed under ch. 51 or 55, Stats., the attorney has satisfied either of the following criteria:

(a) Completed two credits of state public defender approved legal education pertaining to ch. 51 or 55, Stats., cases.

(b) Agreed in writing to complete two credits of state public defender approved legal education pertaining to ch. 51 or 55, Stats., cases during the first year of his or her provisional certification under s. PD 1.037.

(12) **REVOCATION OF PROBATION, PAROLE OR EXTENDED SUPERVISION STATUS.** (a) For a proceeding to revoke probation, parole or extended supervision in which the offense of conviction was a misdemeanor, the attorney has satisfied either of the following criteria:

1. Completed two credits of state public defender approved legal education pertaining to revocation cases.

2. Agreed in writing to complete two credits of state public defender approved legal education pertaining to revocation cases during the first year of his or her provisional certification under s. PD 1.037.

(b) For a proceeding to revoke probation, parole or extended supervision in which the offense of conviction was a felony, the attorney has satisfied both of the following criteria:

1. Satisfied the criteria of sub. (3) (a).

2. Completed two credits of state public defender approved legal education pertaining to revocation cases.

(13) **APPELLATE DIVISION CASES.** (a) *Level one appellate certification.* Level one appellate case certification includes appellate appointments in misdemeanor cases, unclassified crimes, sentencing after revocation cases, paternity cases and class G to I felony cases. For an appeal of a level one appellate case, the attorney has satisfied either of the following criteria:

1. Submitted a brief-in-chief that was filed in any appellate court in the United States within the five years immediately preceding the application for certification and that was reviewed and approved by the state public defender.

2. Completed three credits of state public defender approved legal education pertaining to appellate procedure, or its equivalent, including a law school course, clinical program or judicial clerkship, within one year immediately preceding the application for certification.

(b) *Level two appellate certification.* Level two appellate case certification includes appellate appointments in level one cases and in class A to F felony cases. For an appeal of a level two appellate case, the attorney has satisfied all of the following criteria:

1. Filed two briefs-in-chief in Wisconsin appellate courts that complied with s. 809.30, Stats., within the five years immediately preceding the application for certification.

2. Submitted one brief-in-chief that satisfied the criteria in subd. 1. and that was reviewed and approved by the state public defender.

3. Conducted three contested circuit court hearings, including one evidentiary hearing, within the five years immediately preceding the application for certification.

4. Either has satisfied the criteria of par. (a) 2., or completed six credits of state public defender approved legal education pertaining to criminal law within one year immediately preceding the application for certification.

(c) *Termination of parental rights appellate certification.* For an appeal of a termination of parental rights case under ch. 48, Stats., the attorney has satisfied both of the following criteria:

1. Satisfied the criteria of par. (a).

2. Either has completed four credits of state public defender approved legal education pertaining to termination of parental rights cases within one year immediately preceding the application for certification, or has been sole trial or appellate counsel of record in one contested termination of parental rights case within the three years immediately preceding the application for certification.

(d) *Juvenile appellate certification.* For an appeal of a case prosecuted under ch. 48 or 938, Stats., other than a termination of parental rights case, the attorney has satisfied both of the following criteria:

1. Satisfied the criteria of par. (a).

2. Either has completed four credits of state public defender approved legal education pertaining to ch. 48 or 938, Stats., within one year immediately preceding the application for certification; or has been sole trial or appellate counsel of record in five cases filed under ch. 48 or 938, Stats., within the three years immediately preceding application for certification.

(e) *Civil commitment appellate certification.* For an appeal of a case filed under ch. 51 or 55, Stats., the attorney has satisfied both of the following criteria:

1. Satisfied the criteria of par. (a).

2. Either completed four credits of state public defender approved legal education pertaining to ch. 51 or 55, Stats., within one year immediately preceding the application for certification; or has been sole trial or appellate counsel of record in five cases under ch. 51 or 55, Stats., within the three years immediately preceding the application for certification.

(f) *Chapter 980 appellate certification.* For an appeal of a case filed under ch. 980, Stats., the attorney has satisfied both of the following criteria:

1. Satisfied the criteria of par. (a).

2. Either completed four credits of state public defender approved legal education pertaining to ch. 980, Stats., within one year immediately preceding the application for certification; or has been sole trial or appellate counsel of record in one contested commitment under ch. 980, Stats., within the three years immediately preceding the application for certification.

(14) OTHER SPECIALIZED CERTIFICATION LISTS. The state public defender may develop other specialized lists under this section in response to changes in substantive or procedural law or developments in forensic science.

(15) PUBLIC DEFENDER'S AUTHORITY TO WAIVE CRITERIA. The state public defender may allow an attorney's education, training or experience to substitute for any requirement set forth in s. PD 1.035 or this section. The state public defender may waive the requirements in this section to assign a case to an attorney who has a prior pending case with the same client.

History: Cr. Register, May, 1978, No. 269, eff. 6-1-78; am. Register, August, 1978, No. 272, eff. 9-1-78; r. and recr. (1), renum. (2) to (4) to be (5) to (7) and am. (7), cr. (2) to (4), Register, August, 1981, No. 308, eff. 9-1-81; am. (1) (intro.) and (c), (2) (c) and (d) 5., (3) (c) and (d) 3., renum. (4) to (7) to be (5), (7), (8) and (9) and am. (8) (a) (intro.) and 2. and (9), cr. (4) and (6), Register, November, 1984, No. 347, eff. 12-1-84; am. (5) (a), Register, April, 1990, No. 412, eff. 5-1-90; correction in (9) made under s. 13.93 (2m) (b) 4., Stats., Register, April, 1990, No. 412; r. and recr. (1), am. (2) (b), (3) (b), (5) (b), (7), (8) (a) (intro.), (c) and (a), r. (2) (c), (3) (c), (4) and (8) (a) 2., renum. (2) (d) (intro.), (3) (d) (intro.) and (8) (a) 3. to be (2) (c) (intro.),

(3) (c) (intro.) and (8) (a) 2. and am., cr. (2m), Register, October, 1992, No. 442, eff. 11-1-92; correction in (9) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1995, No. 475; r. and recr. (5), r. (7), Register, April, 1996, No. 484, eff. 5-1-96; correction in (5) (c) 1. and (f) made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, July, 1996, No. 487; correction in (2m) (a) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1996, No. 490; cr. (10), Register, August, 1999, No. 524, eff. 9-1-99; CR 02-110: cr. (5) (bc), am. (5) (d) 3. and (e) 3., Register December 2002 No. 564, eff. 1-1-03; **CR 09-067: r. and recr. Register June 2010 No. 654, eff. 7-1-10.**

PD 1.05 Appeal of certification decisions. (2) Any attorney may appeal the state public defender's certification decision under s. PD 1.03 (2) by mailing a letter of appeal to the state public defender within 30 days of the notice of the decision. The attorney shall state in the letter the certification from which the attorney has been excluded or the decision from which the attorney intends to appeal. The letter shall state the reasons why the attorney believes the decision was improper.

(3) Upon receipt of an appeal letter, the state public defender shall place the matter on the agenda of the next state public defender board meeting unless that meeting is less than 10 days from the receipt of the appeal letter, in which case the matter may be scheduled for the following meeting. The state public defender shall, at least 10 days before the hearing, inform the attorney of the time and place of the board meeting at which the appeal will be considered.

(4) The state public defender shall transmit to the board and the attorney all material relied upon in reaching the certification decision, including the certification application and all written comments received under s. 977.08 (3), Stats.

(5) The attorney may submit to the board any material that he or she believes is relevant to the appeal. The hearing before the board shall be considered a "class 3" proceeding and is governed by ch. 227, Stats.

(6) The state public defender board may deliberate the matter in executive session pursuant to the provisions of s. 19.85 (1) (a), Stats. The board shall issue a written decision affirming, reversing or modifying the decision of the state public defender. The written decision shall be mailed to the attorney within 20 days after the board meeting and shall be signed by an officer of the board.

(7) The board's written decision shall constitute findings of fact and conclusions of law within the meaning of s. 227.47, Stats.

(8) The board may appoint a panel of board members to conduct the hearing specified in subs. (5) and (6). After reviewing the record of the hearing and receiving the panel's recommendation, the entire board shall issue a written decision.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. (1) to (6), Register, November, 1984, No. 347, eff. 12-1-84; corrections in (5) and (7), made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1990, No. 412; am. (5), cr. (8), Register, July, 1997, No. 499, eff. 8-1-97; **CR 09-067: r. (1), am. (2), (3) and (6) Register June 2010 No. 654, eff. 7-1-10.**

PD 1.06 Decertification for cause. History: Cr. Register, August, 1981, No. 308, eff. 9-1-81; am. (1) and (2), Register, November, 1984, No. 347, eff. 12-1-84; am. (1) and (2), r. (4), Register, October, 1992, No. 442, eff. 11-1-92; r. and recr. Register, July, 1997, No. 499, eff. 8-1-97; **CR 09-067: r. Register June 2010 No. 654, eff. 7-1-10.**

PD 1.07 Voluntary removal. Any attorney may request to be removed from any certification list, and the state public defender shall remove the attorney. An attorney seeking reinstatement to a certification list after voluntary removal shall submit an application as provided in s. PD 1.03 (1).

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. (1), Register, November, 1984, No. 347, eff. 12-1-84; am. Register, October, 1992, No. 442, eff. 11-1-92; **CR 09-067: am. Register June 2010 No. 654, eff. 7-1-10.**

PD 1.075 Inactive status. (1) An attorney may decline to accept appointments and request in writing to be placed in inactive status. If an attorney has not been appointed in a case for more than one year, the state public defender may place the attorney in inactive status and shall notify the attorney of the change. Except as provided in sub. (2), the state public defender shall return the attorney to active status upon request.

(2) If an attorney has been in inactive status for more than 2 years, and seeks reinstatement to active status, the attorney shall submit an application as provided in s. PD 1.03 (1).

History: CR 09-067: cr. Register June 2010 No. 654, eff. 7-1-10.

PD 1.08 Access to files. (1) The state public defender may not disclose the contents or substance of any review or investigation prior to issuing a decision under s. PD 1.03, unless ordered to do so by the chairperson of the public defender board

or a court, or unless the attorney who is the subject of the review or investigation first discloses the contents or the substance of the review or investigation.

(2) Only certification lists, board proceedings and decisions under this chapter shall be considered public documents and open to public inspection.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; am. (1), Register, November, 1984, No. 347, eff. 12-1-84; am. (1), Register, October, 1992, No. 442, eff. 11-1-92; CR 09-067: am. Register June 2010 No. 654, eff. 7-1-10.