

Criteria for Placement on a Court of Appeal Indigent Defense Panel (Non-Capital)

The objectives of California's appellate court-appointed counsel (CAC) system are to: (1) further the right of indigent clients to receive the effective assistance of appointed appellate counsel, and (2) provide the appellate courts with useful briefing and argument. To meet those objectives (when the indigent client is not represented by the State Public Defender), California Rules of Court, rule 8.300 mandates that applicants be evaluated and screened before being placed on a panel of private-sector attorneys qualified for appointment.

Each district of the California Court of Appeal maintains an administrator, a public interest non-profit law firm ("appellate project"), to manage the CAC system and perform quality control functions. Each appellate project oversees a panel to which case appointments in its district are made.

Basic Qualifications

Before admitting an applicant to a panel, the administrator must determine that the attorney meets the following criteria:

(1) Experience and Skills

The attorney must have sufficient experience, knowledge and skill to perform the requisite tasks with a minimum amount of assistance from the administrator. For this reason, review of the applicant's recent writing samples may comprise an important part of the evaluation process. Quality is judged by the extent to which the written materials evidence strong research and writing skills, including demonstrating the ability to analyze facts; recognize, analyze, research, organize and argue issues; use persuasive analogies and distinctions in citing precedent; and communicate clearly and concisely.

The administrator may consider the attorney's legal education and academic performance, previous employment, past work in an environment that fostered quality and skill development, and references from those with personal knowledge of the applicant's abilities or familiarity with the applicant's reputation. Language skills and special areas of expertise may also be considered, along with information the administrator may acquire from other sources.

An administrator may place on the panel an attorney who has demonstrated the commitment to represent indigent clients effectively but still requires moderate assistance to perform the necessary tasks if the administrator concludes the attorney will soon acquire sufficient skills to work more independently.

(2) Commitment

The attorney must demonstrate a commitment to high quality representation of indigent appellants, including the willingness to keep current on developments in the law. Prior work in appeals, criminal and/or juvenile law, public interest and pro bono efforts, and representation of the indigent, may be considered.

(3) Conflicts of Interest

Inclusion on a panel is precluded if an attorney's other employment, association or activities give rise to an actual, potential or perceived conflict of interest.

(4) Cooperation with the Administrator

The attorney must be willing to cooperate with the administrator or other entity designated by the court; to be responsive to suggestions, both substantive and procedural; and to work toward improving the quality of the attorney's representation.