

# WEST VIRGINIA CODE: §29-21-15

## **§29-21-15. Public defender corporations -- Board of directors.**

(a) The governing body of each public defender corporation shall be a board of directors consisting of persons who are residents of the area to be served by the public defender corporation.

(1) In multicounty circuits, and in the case of multicircuit or regional corporations, the county commission of each county within the area served shall appoint a director, who shall not be an attorney-at-law. The president of each county bar association within the area served shall appoint a director, who shall be an attorney-at-law: Provided, That in a county where there is not an organized and active bar association, the circuit court shall convene a meeting of the members of the bar of the court resident within the county and such members of the bar shall elect one of their number as a director. The Governor shall appoint one director, who shall serve as chairman, who may be an attorney-at-law, unless such appointment would result in there being an even number of directors, in which event the Governor shall appoint two directors, one of whom may be an attorney-at-law. The Governor's appointees shall serve four-year terms which terms shall coincide with the term of the Governor. Appointments may be made for unexpired terms as may be necessary. Other board members' terms shall be as determined by the board.

(2) In single-county circuits, the manner of selecting directors shall be the same as that described in subdivision (1) of this subsection, except that the county commission shall appoint two directors rather than one, and the bar shall appoint two directors rather than one.

(b) The board of directors shall have at least four meetings a year. Timely and effective prior public notice of all meetings shall be given pursuant to rules promulgated in accordance with the provisions of section three, article nine-a, chapter six of this code, and all meetings shall be public except for those concerned with matters properly discussed in executive session.

(c) The board of directors shall establish and enforce broad policies governing the operation of the public defender corporation but shall not interfere with any attorney's professional responsibilities to clients. The duties of the board of directors shall include, but not be limited to, the following:

(1) Appointment of the public defender and any assistant public defenders as may be necessary to enable the public defender corporation to provide legal representation to eligible clients; and

(2) Approval of the public defender corporation's budget and the fixing of professional and clerical salaries: Provided, That the compensation paid to any part-time public defender,

part-time assistant public defender or other part-time employee shall not include benefits such as retirement, health insurance or paid leave time for illness or vacation unless Public Defender Services has certified in writing to the board of directors that there exists sufficient funding to provide such benefits and the board of directors authorizes such benefits to be included in the compensation; and

(3) Removal of any public defender, assistant public defender or other employee for misfeasance, malfeasance or nonfeasance.

(d) To the extent that the provisions of chapter thirty-one of this code regarding nonprofit corporations are not inconsistent with this article, the provisions of said chapter shall be applicable to the board of directors of the public defender corporation.

(e) While serving on the board of directors, no member may receive compensation from the public defender corporation, but a member may receive payment for normal travel and other out-of-pocket expenses required for fulfillment of the obligations of membership and may accept appointments to represent eligible clients so long as he or she does not discuss a particular case with any public defender, assistant public defender or other employee of the office governed by the board. Directors may not serve as cocounsel with the public defender or assistant public defender in any matter.