

**ADMINISTRATIVE ORDER GOVERNING APPOINTMENT AND  
PAYMENT OF COURT APPOINTED MENTAL HEALTH EXPERTS**

Pursuant to Administrative Order AOSC17-12 issued by the Supreme Court of Florida, each Circuit is directed to implement a statewide rate structure for the payment of specific categories of expert witnesses and to adopt general standards and best practices, if possible, to encourage uniformity across the state.

**THEREFORE, IT IS ORDERED:**

**1. General Provisions:**

a. Types of Evaluations: This Order governs appointment of experts who are paid by the Court. Generally, Court paid evaluations include:

1. Criminal competency (§ 916.115, Fla. Stat.)
2. Criminal competency – intellectual disabilities or autism (§ 916.301, Fla. Stat.)
3. Juvenile competency (§ 985.19, Fla. Stat.)
4. Juvenile competency – intellectual disabilities or autism (§ 985.19, Fla. Stat.)
5. Guardianship examining committees (§ 744.331, Fla. Stat.)
6. Developmental Disability Examining Committees (§ 393.11, Fla. Stat.)
7. Criminal Case – Determination of Intellectual Disability as a Bar to Execution (Fla. R. Crim. P. 3.203)
8. Extraordinary evaluations not dealing with competency and not listed above.

b. Evaluations/Services For Which Court Will Not Pay: The Court does not pay for sanity evaluations or competency restoration services. The Court does not pay experts who are privately retained by the State Attorney, Public Defender, Office of Criminal Conflict and Civil Regional Counsel, conflict counsel, private counsel, or any other person or entity. If a court order designating experts to examine a defendant for sanity purposes is required for payment purposes, the order must be separate from any order appointing experts for competency evaluations. The Court does not pay for an expert's time for a deposition or conference with the attorneys. The Court does not pay fees to an expert who is an employee of a government agency; that expert will be paid by his/her employer.

c. Standard Orders Required: In cases involving a competency evaluation, except guardianship cases, the moving party must prepare the proposed order appointing the expert(s) and must use the appropriate standardized competency order posted on the Circuit's website. The standardized orders are: Form A - criminal cases; Form B – criminal cases in which a

defendant is alleged to be incompetent due to intellectual disabilities or autism; Form C – juvenile cases; Form D – juvenile cases in which a child is alleged to have intellectual disabilities or autism; Form E – appointment of a second expert in criminal competency – requesting party pays for expert. **In all certificates of service, the expert(s) and Court Administration’s Expert Witness Payments Department must be included. To send the order by email, use: ctadhw1@ocnjcc.org. To send a copy of the order by mail, send to: Court Administration, Expert Witness Payments, Suite 2130, 425 North Orange Avenue, Orlando, Florida 32801.**

d. Non-Standard Orders: On those infrequent occasions in which the standard payment rate is insufficient or there is a need for a type of evaluation not specifically encompassed in this Administrative Order, an order appointing an expert who is to be paid by the Court, must include the payment amount and an explanation why it is necessary to exceed the standard fee. The presiding Judge must first obtain approval from the Administrative Judge or the Chief Judge to pay more than the standard fee. The order must specifically state that the evaluation/services and the amount were preapproved by either the Administrative Judge or the Chief Judge. **In all certificates of service, the expert(s) and Court Administration’s Expert Witness Payments Department must be included. To send the order by email, use: ctadhw1@ocnjcc.org. To send a copy of the order by mail, send to: Court Administration, Expert Witness Payments, Suite 2130, 425 North Orange Avenue, Orlando, Florida 32801.**

e. Expert Witness Registries:

1. The Judge must select the expert(s) from the Circuit’s expert witness registry unless paragraph 2 below is applicable. The Circuit will maintain a registry of expert witnesses on its website for each type of evaluation. Expert witness’s curriculum vitae will be kept on file with Court Administration.

2. If an appropriate expert witness is not available in this Circuit, then, if possible, an expert must be selected from another Circuit’s registry. If the person to be examined is located outside the areas where this Circuit’s experts are located, then the Judge must use an expert from the registry of the Circuit in which the person resides. In these situations, the Court will pay the standard rate established by the Circuit in which the expert is located. The appointment order must specifically state that rate. For example, if a defendant is incarcerated in a correctional facility located in the Eighth Circuit and cannot be brought to the Ninth Circuit for evaluation, an expert from the Eighth Circuit’s registry must be appointed. These procedures must be preapproved by the Administrative Judge or the Chief Judge and the order of appointment must state that the appointment and fee were preapproved by either the Administrative Judge or the Chief Judge. **In all orders under this section, the certificates of service must include the expert(s) and Court Administration’s Expert Witness Payments Department. To send the order by email, use: ctadhw1@ocnjcc.org. To send a copy of the order by mail, send to: Court Administration, Expert Witness Payments, Suite 2130, 425 North Orange Avenue, Orlando, Florida 32801.**

f. Fees When Multiple Cases Involved: All fees are based on per person and not per case. For example, if a defendant has three different cases and an expert is appointed to evaluate the defendant in all three cases, the expert will be paid a single fee and not three separate fees.

The Judges must attempt to appoint the same expert across multiple cases and attempt to use an evaluation in another case if relatively close in time to the current case. If a subsequent evaluation is required for any reason, whenever possible the Judge should appoint an expert who previously evaluated the person.

g. Flat Fee Payments and Reports: All flat fee payments for evaluations include travel time, review of all documents, preparation time, actual evaluation, preparation of the written report, and the timely submission of a written report to the Court.

h. Committee: A committee, whose members will be appointed by the Chief Judge, will be created to address complaints and grievances regarding experts on the Court's registry. The committee chair and members will be posted on the Circuit's Expert Witness webpage, along with the procedures necessary to intake and process any complaints or grievances.

## **2. Criminal Competency (No Suggestion of Intellectual Disability or Autism)** **(Section 916.115, Florida Statutes):**

a. Only one expert may be initially appointed.

1. Initial Finding - Defendant is Competent: If the expert determines the defendant is competent to stand trial and either party requests a second opinion, **the requesting party must pay for the second expert**. If the second expert determines the defendant is incompetent to proceed, the Judge may either hold a hearing to determine competency based on the two experts' opinions, or the Judge may select a third expert who will be paid by the Court. Any no shows or follow-up evaluations involving the second expert must be paid by the requesting party.

2. Initial Finding - Defendant is Incompetent: If the expert determines the defendant is incompetent to stand trial, and a party disputes the expert's findings, the Judge will either reject the dispute and act accordingly, or may select a second expert. If the second expert determines the defendant is competent to proceed, the Judge may either hold a hearing to determine competency based on the two experts' opinions, or the Judge may select a third expert. These experts will be paid by the Court.

b. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment.

c. Experts appointed under this provision must be either a Florida licensed psychiatrist, psychologist, or physician, satisfactorily complete the approved training as an expert by the Department of Children and Family Services, have a least five years of experience in this area of expertise, and maintain a business office in Orange, Osceola, Lake, Brevard, Seminole, or Polk Counties.

d. The Court customarily does not pay experts for their time while testifying. In those rare instances when the Judge specifically orders the expert to testify, and preapproval is

obtained from the Administrative Judge or the Chief Judge, the Court will pay for the expert's time while testifying; however, for payment purposes, the Judge must enter an order directing the expert to testify indicating it is the Court's intent the expert testify. This order must be preapproved by the Administrative Judge or Chief Judge. Payment for testimony is limited to a two hour maximum and includes travel time, preparation time, waiting to testify, and the actual testimony. The expert must attach a copy of the order to the invoice.

e. Payment Rates:

Initial Evaluation	\$400.00
Follow-up Evaluations – Same defendant/Same expert	\$200.00
No Show (40% of the evaluation rate - only two no shows allowed per defendant)	\$160.00/\$80.00
In-Court Testimony (in rare cases required by Judge) - 2 hour maximum including wait time	\$150.00 per hour

**3. Criminal Competency - Suggestion of Intellectual Disability or Autism (Section 916.301, Florida Statutes):**

a. The Court should appoint one, or at the request of any party, two experts from the appropriate Circuit registry and appoint the Agency for Persons with Disabilities which will then select a qualified psychologist.

b. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment.

c. Experts appointed under this provision must be either a Florida licensed psychiatrist, psychologist, or physician, qualified by the Agency for Persons with Disabilities to perform evaluations of persons with intellectual disabilities and autism, have a least five years of experience in this area of expertise, and maintain a business office in Orange, Osceola, Lake, Brevard, Seminole or Polk Counties.

d. The Court customarily does not pay experts for their time while testifying. In those rare instances when the Judge specifically orders the expert to testify, and preapproval is obtained from the Administrative Judge or the Chief Judge, the Court will pay for the expert's time while testifying; however, for payment purposes, the Judge must enter an order directing the expert to testify indicating it is the Court's intent the expert testify. This order must be preapproved by the Administrative Judge or Chief Judge. Payment for testimony is limited to a two hour maximum and includes travel time, preparation time, waiting to testify, and the actual testimony. The expert must attach a copy of the order to the invoice.

e. Payment Rates:

Initial Evaluation	\$750.00
All Follow-up Evaluations – Same defendant/Same expert	\$200.00

No Show (only two no shows paid per defendant)	\$140.00
In-Court Testimony (in rare cases required by Judge) - 2 hour maximum including wait time	\$150.00 per hour

**4. Juvenile Competency (No Suggestion of Intellectual Disability or Autism)  
(Section 985.19, Florida Statutes):**

- a. The Court should appoint at least two but no more than three experts from the appropriate registry. Judges are encouraged to initially appoint only two experts.
- b. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment.
- c. Experts appointed under this provision must be either a Florida licensed psychiatrist, psychologist, or physician, satisfactorily complete the approved training as an expert by the Department of Children and Family Services, have a least five years of experience in this area of expertise, and maintain a business office in Orange, Osceola, Lake, Brevard, Seminole or Polk Counties.
- d. The Court customarily does not pay experts for their time while testifying. In those rare instances when the Judge specifically orders the expert to testify, and preapproval is obtained from the Administrative Judge or the Chief Judge, the Court will pay for the expert's time while testifying; however, for payment purposes, the Judge must enter an order directing the expert to testify indicating it is the Court's intent the expert testify. This order must be preapproved by the Administrative Judge or Chief Judge. Payment for testimony is limited to a two hour maximum and includes travel time, preparation time, waiting to testify, and the actual testimony. The expert must attach a copy of the order to the invoice.

e. Payment Rates:

Initial Evaluation	\$350.00
All Follow-up Evaluations – Same juvenile/Same expert	\$200.00
No Show (40% of the evaluation rate - only two no shows allowed per juvenile)	\$140.00/\$80.00
In-Court Testimony (in rare cases required by Judge) - 2 hour maximum including wait time	\$150.00 per hour

**5. Juvenile Competency - Suggestion of Intellectual Disability or Autism  
(Section 985.19, Florida Statutes):**

- a. The Court should appoint the Agency for Persons with Disabilities to examine the child.

b. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment.

c. The Court customarily does not pay experts for their time while testifying. In those rare instances when the Judge specifically orders the expert to testify, and preapproval is obtained from the Administrative Judge or the Chief Judge, the Court will pay for the expert's time while testifying; however, for payment purposes, the Judge must enter an order directing the expert to testify indicating it is the Court's intent the expert testify. This order must be preapproved by the Administrative Judge or Chief Judge. Payment for testimony is limited to a two hour maximum and includes travel time, preparation time, waiting to testify, and the actual testimony. The expert must attach a copy of the order to the invoice.

d. Payment Rates:

Initial Evaluation	\$750.00
All Follow-up Evaluations – Same juvenile/Same expert	\$200.00
No Show (only two no shows paid per juvenile)	\$140.00
In-Court Testimony (in rare cases required by Judge)	\$150.00 per hour
- 2 hour maximum including wait time	

**6. Guardianship Examining Committee (Section 744.331, Florida Statutes):**

a. The Court will pay the Examining Committee members only if the Ward is indigent as determined by the Court.

b. Three members are to be appointed by the Court but selected by the Clerk of Court from the appropriate list maintained on the Court's website. One must be a psychiatrist or a physician while the other two must be either a psychologist, gerontologist, psychiatrist, physician, registered nurse, nurse practitioner, licensed social worker, person with an advanced degree in gerontology from an accredited college or university, or other person who by knowledge, skill, experience, training, or education, may, in the Court's discretion, advise the Court in the form of an expert opinion. The members must also have at least five years of experience in area of expertise, four hours of initial training and two hours of continuing education during each 2-year period after the initial training. Initial training may be waived by the Chief Judge. A member must maintain either a business office or residence in Orange, Osceola, Lake, Brevard, Seminole or Polk Counties.

c. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge.

d. Payment Rates:

M.D., D.O., Ph.D	\$300.00
ARNP, RN, MSW, LPN, LCSW, Lay Person	\$120.00

**7. Developmental Disability Examining Committee (Section 393.11, Florida Statutes):**

- a. Experts appointed for this Committee must have expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities or autism.
- b. The Committee must include at least one licensed and qualified physician, one licensed and qualified psychologist, and one qualified professional who, at a minimum, has a master's degree in social work, special education, or vocational rehabilitation counseling.
- c. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment.
- d. Experts must have at least five years of experience in area of expertise and must maintain a business office or residence in Orange, Osceola, Lake, Brevard, Seminole or Polk Counties.
- e. Payment Rates:

M.D., D.O., Ph.D	\$300.00
ARNP, RN, MSW, LPN, LCSW, Lay Person	\$200.00

**8. Criminal Cases - Determination of Intellectual Disability as a Bar to Execution (Rule 3.203 of the Florida Rules of Criminal Procedure):**

- a. Experts appointed under this provision must be a Florida licensed psychiatrist, psychologist, or physician, qualified by the Agency for Persons with Disabilities to perform evaluations of persons with intellectual disabilities and autism, and have at least 5 years of experience in this area of expertise.
- b. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment unless specifically waived by the Judge.
- c. The Court customarily does not pay experts for their time while testifying. In those rare instances when the Judge specifically orders the expert to testify, and preapproval is obtained from the Administrative Judge or the Chief Judge, the Court will pay for the expert's time while testifying; however, for payment purposes, the Judge must enter an order directing the expert to testify indicating it is the Court's intent the expert testify. This order must be preapproved by the Administrative Judge or Chief Judge. Payment for testimony is limited to a two hour maximum and includes travel time, preparation time, waiting to testify, and the actual testimony. The expert must attach a copy of the order to the invoice.

d. Payment Rates:

Evaluation	\$750.00
Travel time, if necessary, to and from Florida State Prison or Union Correctional Institution	\$50.00 per hour maximum of 6 hours
In-Court Testimony (in rare cases required by Judge) - 2 hour maximum including wait time	\$150.00 per hour

**9. Extraordinary Evaluations (Not Competency) Including Capital Murder and First-Degree Murder Cases Not Listed Above:**

a. Mental health experts required for evaluations not addressed above will be paid at the rate of \$160.00 per hour up to a maximum of five (5) hours for services including preparation, evaluation, and submission of a timely written report. All orders for evaluations under this paragraph must be preapproved by the Administrative Judge. The order appointing an expert under this provision must state that preapproval was obtained from the Administrative Judge and specifically state what services the expert is to perform.

b. In order for an expert to be paid for services rendered, the expert must file a written report with the Judge that explicitly addresses each of the factors listed in the order of appointment.

c. The Court customarily does not pay experts for their time while testifying. In those rare instances when the Judge specifically orders the expert to testify, and preapproval is obtained from the Administrative Judge or the Chief Judge, the Court will pay for the expert's time while testifying; however, for payment purposes, the Judge must enter an order directing the expert to testify indicating it is the Court's intent the expert testify. This order must be preapproved by the Administrative Judge or Chief Judge. Payment for testimony is limited to a two hour maximum and includes travel time, preparation time, waiting to testify, and the actual testimony. The expert must attach a copy of the order to the invoice.

**10. Expert's Invoices:**

Experts must abide by the *Billing Manual for Experts Seeking Compensation From The Court* issued by Court Administration and by any contract they sign. The *Billing Manual* will be maintained on the Court's website. Experts must submit a Uniform Invoice for Expert Witness Services as developed by the Office of the State Courts Administrator, along with a copy of the appointment order. The order must state with specificity the amount to be paid to the expert. If the invoice is for services not paid by a standard flat fee, the invoice must be descriptive and include identifying details with enough information for a meaningful audit by Court Administration. The expert must specifically identify the names of tests, examinations, evaluations, documents reviewed, and must itemize the time spent performing each task. Generic descriptions are insufficient.



All invoices must be submitted within thirty days after the completion of the services provided or compensation may be denied. Invoices must be submitted to Court Administration, Expert Witness Payments, Suite 2130, 425 North Orange Avenue, Orlando, Florida, 32801.

**11. Previous Administrative Orders Superseded:** Any provisions in other active Administrative Orders that may be inconsistent with this Administrative Order are superseded and this Administrative Order shall control.

**12. Effective Date:** This Administrative Order is effective October 1, 2017. New payment rates and new procedures apply only to orders entered on or after October 1, 2017.

**DONE AND ORDERED** at Orlando, Florida, this 15<sup>th</sup> day of September, 2017.

\_\_\_\_\_/s/\_\_\_\_\_  
Frederick J. Lauten  
Chief Judge

Copies provided to:

Clerk of Courts, Orange County  
Clerk of Courts, Osceola County  
General E-Mail Distribution List  
<http://www.ninthcircuit.org>