



MISSISSIPPI DRUG COURT RULES

**As Promulgated
By The
State Drug Court Advisory Committee**

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**As promulgated
by the**

**STATE DRUG COURT
ADVISORY COMMITTEE**

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Section 1. Applicability

These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide certified drug court services pursuant to section 11 of the Alyce Griffin Clarke Drug Court Act. *See* Miss. Code Ann. § 9-23-11 (Supp. 2003).

Section 2. Approval Requirements

Any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide any certified drug court service to or for persons ordered by the court to participate in the certified drug court must submit to the requirements for certification. A drug court may not offer drug court services unless approved and certified by the Administrative Office of Courts.

Section 3. Definition of Terms

The following terms, when used in these rules, shall have the meanings below unless the context clearly indicates a different meaning:

“Addiction treatment services” means a broad range of planned and continuing care, treatment, and rehabilitation, including, but not limited to, counseling, psychological, medical, and social service care designed to influence the behavior of individual alcohol abusers or drug abusers, based on an individual treatment plan.

“Alcohol abuse” means the use of alcohol in a way that harms the individual or society.

“Alcoholism” means physical or psychological dependence on the use of alcohol.

“Case management” means goal oriented activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual certified drug court participants.

“Case manager” means a drug court team member responsible for managing a number of individual drug court participants and the participant’s respective case files.

“Case termination” means following the procedure for terminating a participant’s court imposed obligation to participate in the services of a certified drug court.

“Certified drug court” means a drug court that has successfully applied for and has received a certification of approval from the Administrative Office of Courts.

“Certified services” include the services a certified drug court may provide under Miss. Code Ann. § 9-23-13 but do not include addiction treatment services or chemical testing services.

“Certified Treatment Program” means that a provider of inpatient treatment, inpatient detoxification, intensive outpatient, primary residential, and secondary residential programs be certified by the Mississippi Department of Mental Health, or other appropriate state agency or the equivalent agency of another state.

“Chemical tests” means the analysis of an individual’s: (i) blood, (ii) breath, (iii) hair,

(iv) sweat, (v) saliva, (vi) urine; or (vii) other bodily substance to determine the presence of alcohol or a controlled substance.

“Clinical impression” means a written summary of the observations and conclusions of a person who has or is working to obtain clinical screening staff status based on a clinical screening the person has conducted and within the scope of the person’s training.

“Clinical screening staff” means a drug court staff member or team member who refers the participant to an appropriate treatment provider, evaluates whether the participant meets clinical eligibility requirements for participation in the certified drug court, or both.

“Documentation” means a written record acceptable as evidence to demonstrate compliance with these rules.

“Drug” includes any controlled substance as defined in Miss. Code Ann. § 41-29-105(f) and any drug as defined in Miss. Code Ann. § 41-29- 105(n).

“Drug abuse” means the use of drugs or harmful substances in a way that harms the individual or society.

“Drug addiction” means physical or psychological dependence on the use of drugs.

“Drug court” means an immediate and highly structured intervention process for substance abuse treatment of eligible defendants or juveniles that: (i) brings together substance abuse professionals, local social programs and intensive judicial monitoring; and (ii) follows the key components of drug courts published by the Drug Court Program Office of the United States Department of Justice.

“Drug Court Act” refers to the Alyce Griffin Clarke Drug Court Act. Miss. Code Ann. §§ 9-23-1 to -23 (Supp. 2003).

“Drug court advisory body” is a group of people that the supervising judge may appoint to provide advice on drug court matters.”

“Drug Court Case Management System” also referred to as “DCCM”, it is the official drug court case management system that shall be used by all drug court programs for monitoring and tracking client progress throughout their entire enrollment in drug court.

“Drug court case manager” means an employee of the drug court who provides case management services to clients enrolled in the drug court. Essential functions include; processing forms and reports, compiling data for monthly reporting, and maintaining case files.

“Drug court coordinator” means the administrative head or person responsible for the management and coordination of certified drug court functions and operations. This person is responsible for the certified drug court’s compliance with these rules and provides the daily supervision of the drug court’s staff and coordination of the drug court team members.

“Drug court field officer” means an employee of the drug court who provides supervision and casework services to clients enrolled in drug court. Essential functions generally include enforcing probation agreements, drug testing of clients, and compiling data for monthly reporting.

“Drug court judge” means the judicial officer who presides over a certified drug court.

“Drug court treatment counselor” means an employee of the drug court who provides treatment and counseling services to clients enrolled in the drug court program.

“Drug court services” means a broad range of planned care, including intervention, clinical screening, referral, case management and monitoring that may be extended to a certified drug court participant and that influence the behavior of the participant toward identified goals

and objectives. The services and the manner in which they are provided are guided by the ten (10) key components and/or the sixteen (16) juvenile drug court strategies.

“Drug court team” has the meaning set forth in section 15(a).

“Eligibility screening” means a procedure for determining a potential participant’s legal eligibility for admission to the certified drug court under Miss. Code Ann. § 9-23-15 and court guidelines.

“Evaluation” means a systematic process used to assess the certified drug court’s process or outcomes in light of identified goals and objectives.

“Harmful substance” means any substance used by an individual to produce the effect of a controlled substance or drug, although the substance is not classified as a controlled substance under current Mississippi law.

“Juvenile Drug Court Strategies” means the sixteen (16) strategies of juvenile drug courts as published by the United States Department of Justice, Bureau of Justice Assistance.

“Participant” means any person who has signed a participant agreement or has begun receiving certified services, whichever happens first. However, for the purposes of orientation and confidentiality (sections 19 and 20), “participant” means any person who has applied for services from the certified drug court.

“Participant orientation” means the administrative process conducted before or after a participant is admitted to a certified drug court.

“Policy” means a statement of the principles that guide and govern the activities, procedures, and operations of a certified drug court.

“Pre-existing drug court” means a drug court that began operation prior to October 1, 2004.

“Procedure” means a series of activities designed to implement certified drug court goals or policy.

“State Drug Court Advisory Committee” is an eleven (11) member committee appointed by the Supreme Court of Mississippi whose directive is to provide recommendations to the Chief Justice and other state officials concerning the improvement to drug court policies and procedures.

“State Drug Court Coordinator” has the primary responsibility for facilitating development, certification, oversight, and support of all drug courts operating in the State of Mississippi.

“Substance” means any drug, controlled substance, or alcohol.

“Substance abuse” means the use of alcohol or other drugs to an extent that harms the individual or society.

“Supervising judge” means the judge who has ultimate responsibility for a certified drug court. This may or may not be the same person as the drug court judge.

“Ten (10) key components” means the ten (10) key components of drug courts published by the Drug Court Program Office of the United States Department of Justice.

“Volunteer” means a person who, without direct financial remuneration, provides ongoing services to the certified drug court.

Section 4. Compliance

(a) The Administrative Office of Courts may take the administrative actions necessary to ensure compliance with these rules, including, but not limited to reviews, surveys, or inspections which may or may not be scheduled or announced.

(b) In order for a certified adult drug court to secure and retain a certificate of approval, it must demonstrate compliance with the *key components* and standards imposed by these rules in the following manner:

(1) the certified drug court must comply with all of the standards for a certified drug court; and

(2) a certified drug court that demonstrates compliance with all the standards for a certified drug court shall be issued a certificate of approval that is valid for a three-year period from the date of issue, unless otherwise revoked.

(c) In order for a certified juvenile drug court to secure and retain a certificate of approval, it must demonstrate compliance with the juvenile drug court *strategies* and standards imposed by these rules in the following manner:

(1) the certified drug court must comply with all of the standards for a certified drug court; and

(2) a certified drug court that demonstrates compliance with all the standards for a certified drug court shall be issued a certificate of approval that is valid for a three-year period from the date of issue, unless otherwise revoked.

(d) A certified drug court is in compliance with a standard only when it has met all requirements contained in the standard.

(e) Unless otherwise indicated, these rules and any amendments to these rules take effect thirty (30) days after they are adopted by the State Drug Court Advisory Committee.

Comments on Section 4(b). The term “key components” refers to the current ten (10) key components of drug courts as published by the Drug Courts Program Office of the United States Department of Justice. The ten key components are listed as follows:

- 1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.*
- 2. Using a non adversarial approach, prosecution and defense counsel promote public safety while protecting participants’ due process rights.*
- 3. Eligible participants are identified early and placed promptly in the drug court program.*
- 4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.*
- 5. Abstinence is monitored by frequent alcohol and other drug testing.*

6. *A coordinated strategy governs drug court responses to participant compliance.*
7. *Ongoing judicial interaction with each drug court participant is essential.*
8. *Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.*
9. *Continuing interdisciplinary education promotes effective drug court planning, implementation and operations.*
10. *Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.*

Comments on Section 4(c). The term “strategies” refers to the current sixteen (16) strategies of juvenile drug courts as published by the United States Department of Justice, Bureau of Justice Assistance. The sixteen key strategies are listed as follows:

1. *Collaborative Planning - Engage all stakeholders in creating an interdisciplinary, coordinated, and systematic approach to working with youth and their families.*
2. *Teamwork - Develop and maintain an interdisciplinary, non-adversarial work team.*
3. *Clearly Defined Target Population and Eligibility Criteria - Define a target population and eligibility criteria that are aligned with the program’s goals and objectives.*
4. *Judicial Involvement and Supervision - Schedule frequent judicial reviews and be sensitive to the effect that court proceedings can have on youth and their families.*
5. *Monitoring and Evaluation - Establish a system for program monitoring and evaluation to maintain quality of service, assess program impact, and contribute to knowledge in the field.*
6. *Community Partnerships - Build partnerships with community organizations to expand the range of opportunities available to youth and their families.*
7. *Comprehensive Treatment Planning - Tailor interventions to the complex and varied needs of youth and their families.*
8. *Developmentally Appropriate Services - Tailor treatment to the developmental needs of adolescents.*
9. *Gender Appropriate Services - Design treatment to address the unique needs of each gender.*
10. *Cultural Competence - Create policies and procedures that are responsive to cultural differences and train personnel to be culturally competent.*
11. *Focus on Strengths - Maintain a focus on the strengths of youth and their families during program planning and in every interaction between the court and those it serves.*
12. *Family Engagement - Recognize and engage the family as a valued partner in all components of the program.*
13. *Educational Linkages - Coordinate with the school system to ensure that each participant enrolls in and attends an educational program that is appropriate to his or her needs.*
14. *Drug Testing - Design drug testing to be frequent, random, and observed. Document testing policies and procedures in writing.*
15. *Goal Oriented Incentives and Sanctions - Respond to compliance and noncompliance with incentives and sanctions that are designed to reinforce or modify the*

behavior of youth and their families.

16. Confidentiality - *Establish a confidentiality policy and procedures that guard the privacy of the youth while allowing the drug court team to access key information.*

Section 5. Notification of Intent

Except as provided in section 7, a court shall notify the Administrative Office of Courts during the planning stages of the court's intention to establish a drug court.

Section 6. Initial Certification Procedures

(a) Except as provided in section 7, a court that proposes to establish a certified drug court under the Drug Court Act must:

(1) submit a standard application form and other materials required under subsection (e), to the Administrative Office of Courts;

(2) obtain a written statement from the Administrative Office of Courts approving the drug court's application and its plans for operation;

(3) obtain a provisional certificate of approval from the Administrative Office of Courts under subsection (i); and

(4) obtain a three-year certificate from the Administrative Office of Courts under subsection (k).

(b) The prospective drug court must have the written statement from the Administrative Office of Courts described in subsection (g), approving the court's application before the court may:

(1) assess and collect fees under Miss. Code Ann. § 9-23-11; and

(2) operate as a certified drug court and receive the benefits of the provisions in the Drug Court Act.

(c) A new drug court may not begin the delivery of participant related services until the prospective drug court has received a provisional certificate of approval under subsection (i) or certificate of approval under subsection (k).

(d) The Administrative Office of Courts will forward the applicant, upon request, a standard initial application form.

(e) The applicant shall submit the following to the Administrative Office of Courts:

- (1) a letter requesting approval to begin the drug court certification process; and
- (2) the completed application form and any supporting documents.

(f) Upon receipt of all required documents, the Administrative Office of Courts will review the materials submitted. The Administrative Office of Courts may conduct an on-site visit to determine whether all requirements for certification have been met. The Administrative Office of Courts must offer recommendations or suggested corrections as are necessary and appropriate.

(g) The Administrative Office of Courts must determine if a prospective drug court's application should be granted or denied. If the Administrative Office of Courts finds that the applicant is in compliance with all applicable requirements, the Administrative Office of Courts must provide the applicant with a written statement approving the drug court's application and plans for operation. Denial of an application will follow procedures outlined in section 8.

(h) After a prospective drug court has received a written statement from the Administrative Office of Courts approving the drug court's application and plans for operation, the operation of the certified drug court is established. Upon establishment of a certified drug court, the court:

- (1) must establish procedures, required by these rules, concerning the receipt of, accountability for, and disbursement of fees collected and other revenue or monies received; and
- (2) may set and require the assessment and collection of fees authorized by Miss. Code Ann. § 9-23-11(7)(b).

(i) At least thirty (30) days prior to a scheduled site visit the applicant shall submit a policy and procedures manual developed in accordance with these rules. After a drug court's application and policy and procedures manual have been favorably reviewed and the site visit has been conducted, the Administrative Office of Courts may issue a provisional certificate of approval authorizing the drug court to begin the delivery of services as a certified drug court. Provisional approval is valid for one hundred eighty (180) days of operation during which the Administrative Office of Courts will review the certified drug court's actual delivery of services and record keeping practices. This provisional certificate must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

(j) Except as provided in sections 8 and 9, the Administrative Office of Courts must approve a properly completed and documented application for certification of a drug court with a written statement of its approval if the court has demonstrated that:

- (1) the certified drug court will provide each of the services and functions it is required to perform under these rules;

- (2) based on the certified drug court's policies, procedures, practices, and staff, the certified drug court has the capability to provide the services proposed;
- (3) adequate revenues and other resources will be provided to support the certified drug court and its services;
- (4) the services of the certified drug court will be delivered through methods likely to assure that participants of the certified drug court will benefit; and
- (5) the certified drug court will be operated in compliance with these rules, the requirements of the Drug Court Act, and other applicable federal and state laws.

(k) After the applicant has met all requirements in subsection (j), the Administrative Office of Courts will issue a certificate of approval. The certificate is valid for a period of three (3) years. This document must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

Section 7. Certification for Pre-existing Drug Courts

(a) The section applies to a pre-existing drug court. A drug court that began operation prior to October 1, 2004, may continue to operate pending certification provided the court follows the procedures outlined in this section for certification of a pre-existing drug court.

(b) Prior to October 1, 2004, the pre-existing drug court must:

- (1) notify the Administrative Office of Courts in writing of the date the drug court began operation; and
- (2) request an application for initial certification.

(c) Upon receipt of this letter described in subsection (b), the Administrative Office of Courts will issue a provisional certificate to the pre-existing drug court that will be valid for a period of one hundred eighty (180) days. The provisional certificate of approval must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

(d) While the provisional certificate is in effect, the court may continue to:

- (1) assess and collect fees under Miss. Code Ann. § 9-23-11; and
- (2) continue its operation as a certified drug court.

(e) The provisionally certified pre-existing drug court must complete an application for initial certification and return it to the Administrative Office of Courts with any other materials requested by the Administrative Office of Courts, no later than one hundred eighty (180) days

after the provisional certificate is issued.

(f) After the Administrative Office of Courts has reviewed the application and accompanying materials the Administrative Office of Courts will schedule and conduct a site visit and certification review.

(g) If the Administrative Office of Courts determines that the requirements of section 6(j) have been met by the pre-existing drug court, the Administrative Office of Courts will issue a certificate of approval that is valid for a period of three (3) years. This document must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

(h) A provisionally certified pre-existing drug court must comply with these rules and the provisional certificate is subject to revocation for failure to do so.

(i) A pre-existing drug court that obtains initial certification under this subsection must follow the procedures for re-certification described in section 8.

Section 8. Re-Certification Procedures

(a) The certified drug court must follow the procedures described in this section to initiate a re-certification review and obtain re-certification.

(b) Sixty (60) days prior to the actual expiration date of the certificate the drug court must do the following:

(1) notify the Administrative Office of Courts that the certified drug court intends to apply for re-certification and request an application for re-certification;

(2) schedule a review date; and

(3) submit the application for re-certification and all supporting materials to the Administrative Office of Courts no less than thirty (30) days prior to the review date.

(c) Re-certification review may include evaluation of each of the following:

(1) the certified drug court's compliance with the Drug Court Act;

(2) the certified drug court's compliance to these rules;

(3) the number, qualifications, and abilities of certified drug court staff;

(4) the participation by and interaction between the drug court team members;

(5) the qualifications and abilities of any contractor that provides services to the certified drug court or its participants, and the contractor's compliance with the

terms of the contract;

(6) the qualifications and abilities of any treatment provider that provides treatment services to the certified drug court's participants and the treatment providers compliance with the terms of the provider referral agreement;

(7) a review of complaints concerning the certified drug court; and

(8) any other issues or subjects that the Administrative Office of Courts determines are relevant to the review.

(d) Upon completion of the re-certification review, the Administrative Office of Courts may provide an executive summary of the review to the supervising judge and any certified drug court staff the judge wishes to have present. Not later than sixty (60) days after completion of the re-certification review the Administrative Office of Courts must send a final report to the supervising judge and the certified drug court coordinator.

(e) When the certified drug court has satisfied the requirements of this section and the Administrative Office of Courts determines that all standards required by these rules have been met, the Administrative Office of Courts must issue a new certificate for a period of three (3) years. This document must be kept on file at the court and a copy shall be kept on file in the Administrative Office of Courts.

Section 9. Denial of Application for Certification or Re-certification

(a) The Administrative Office of Courts may deny the request for approval of an application for certification or re-certification for any reason enumerated in section 10. If the Administrative Office of Courts determines the request for certification or re-certification of a drug court should be denied, the Administrative Office of Courts must follow procedures required in this section.

(b) The Administrative Office of Courts must notify the supervising judge, by certified mail, return receipt requested, that the Administrative Office of Courts intends to deny the application. The notice of intention to deny must contain all of the following information:

(1) a brief statement explaining the reason for denial;

(2) a statement that the decision to deny the application will become final unless the supervising judge submits written objections to the Administrative Office of Courts within thirty (30) days, stating why the denial should not become final;

(3) a statement that if the supervising judge submits objections to the proposed denial during the thirty (30) days specified in subdivision (2), the drug court's current certificate remains in effect, except in extraordinary circumstances, until the conclusion of negotiations and hearings; and

(4) a statement that in extraordinary circumstances, the Administrative Office of Courts may limit or deny this period of extension if it determines that continued certified drug court operations present an imminent danger to the public health or safety.

If the supervising judge submits written objections, the Administrative Office of Courts must provide full opportunity for adjustment, compromise or settling of all issues.

(c) If the Administrative Office of Courts denies the application for certification a second time after receiving objections, the supervising judge may request a hearing. The request for hearing must be made in writing within fifteen (15) days of the date of the second denial. The Administrative Office of Courts must provide a hearing, if requested. The hearing must be conducted as described in Section 12.

Section 10. Grounds for Denial or Revocation

The Administrative Office of Courts may revoke any current certificate, or deny an application for certification or re-certification for one (1) or more of the following reasons:

- (1) violation of any rule set forth in these rules by the certified drug court, its coordinator, staff or team;
- (2) permitting, aiding, or abetting the commission of an unlawful act;
- (3) conduct or practices found by the Administrative Office of Courts to be harmful to the health or safety of any participant in the certified drug court;
- (4) deviation by the certified drug court from the plan of operation originally certified which, in the judgement of the Administrative Office of Courts, adversely affects the character, quality, or scope of services being provided to participants;
- (5) failure of the applicant or holder of a certificate of approval to cooperate with the Administrative Office of Courts in connection with the certification process or an investigation;
- (6) failure of the applicant or holder of a certificate of approval to provide accurate or reliable information on the application or other written documentation regarding the certified drug court's administrative operations or service delivery practices (omission of information may also be considered grounds for denial or revocation); or
- (7) previous denial or revocation of a certificate of approval.

Section 11. Suspension and Revocation Procedures

(a) Whenever the Administrative Office of Courts determines that any certified drug court may have committed an act, or may have been engaged in conduct or practices justifying revocation of its certificate under these rules, the Administrative Office of Courts must, by certified mail, return receipt requested, notify the supervising judge that the Administrative Office of Courts has requested a hearing under section 12(c) to determine the issue of revocation of the drug court's certificate. Notice of the request for hearing must contain a statement of the matters of law and of fact to be determined at the hearing.

(b) The Administrative Office of Courts may, without notice, suspend any certificate simultaneously with the institution of proceedings, under subsection (a), if the Administrative Office of Courts determines that there is imminent danger to the public health or safety that warrants this action. The suspension continues in effect until the conclusion of all hearings, including any judicial review, unless sooner withdrawn by the Administrative Office of Courts or dissolved by a court of competent jurisdiction.

(c) The Administrative Office of Courts may revoke the certificate of approval or provisional certificate of approval of a certified drug court for any of the following reasons:

- (1) any reason enumerated in section 10(1) through 10(6) as a reason for revoking or setting aside a certificate; or
- (2) failure of a prospective drug court to receive certification within one (1) year from the date that the drug court initiated its application for certification.

(d) Whenever the Administrative Office of Courts determines that any reason exists justifying the revocation of a drug court's certification, the Administrative Office of Courts must observe the procedures required in section 12. The revocation of a certificate to provide drug court services is also revocation of the approval by the Administrative Office of Courts of the application for certification by the drug court.

Section 12. Hearing Procedures

(a) All hearings held to determine issues relating to the denial of an application for certification or re-certification or the revocation of a certificate must follow the procedures described in this section.

(b) A supervising judge who submitted written objections to a denial of an application under section 9(b) may file a request for a hearing. The request must meet the following requirements:

- (1) the request must be in writing and must state the reason for the request;
- (2) the request may not include any reasons that were not included in the objections submitted under section 9(b); and
- (3) the request must be filed with the Administrative Office of Courts within

fifteen (15) days after the second denial of the application under section 9(c).

(c) Within thirty (30) days after the request for a hearing has been filed with the Administrative Office of Courts, a hearing shall be conducted by a hearing examiner who will be selected as follows:

(1) the director of the Administrative Office of Courts shall create a list naming all judges who are members of the SDCAC; and

(2) the supervising judge shall select one (1) name from the list and advise the director of the name selected;

(d) The hearing examiner shall conduct an informal hearing and is not required to follow any formal rules of evidence or procedure, except the following:

(1) at least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Administrative Office of Courts with written notice of the date, time, and place of the hearing;

(2) the party requesting the hearing must show why:

(A) the application meets the certification requirements established by the Administrative Office of Courts; or

(B) revocation of the certificate was unjustified;

(3) either party may submit supporting evidence, if any; and

(4) the hearing examiner shall make an electronic recording of the hearing and may have a written transcript prepared of the electronic recording. The supervising judge may obtain a copy of the electronic recording or the written transcript if a written transcript has been prepared from the Administrative Office of Courts upon payment of the cost of the copy.

(e) Within thirty (30) days after the hearing, the hearing examiner shall submit proposed written findings and recommendations to the supervising judge and the Administrative Office of Courts.

(1) Objections to the findings and recommendations must be in writing and filed with the Administrative Office of Courts no later than fifteen (15) days after the date the proposed findings and recommendations were issued.

(2) The findings and recommendations will be submitted to the SDCAC unless the supervising judge gives written notice with the fifteen (15) day period that he or she has decided to withdraw the appeal.

(3) If no objections are filed and the SDCAC adopts the findings and

recommendations as submitted without a hearing, those findings and recommendations become final.

(4) If either the supervising judge or the director of the Administrative Office of Courts objects to the findings and recommendations, or if the SDCAC proposes to modify or reject the findings and recommendations in the absence of any objections, SDCAC must conduct a hearing and provide the supervising judge and the director of the Administrative Office of Courts with an opportunity to be heard orally concerning the findings and recommendations. At least ten (10) days before the hearing, the Administrative Office of Courts must give written notice of the date, time, and place of the hearing to the supervising judge.

(5) SDCAC's findings and recommendations must be adopted by a majority vote of the members present and voting.

Section 13. Notice of Change

(a) Any applicant or holder of a certificate of approval shall give written notice to the Administrative Office of Courts of any change of supervising judge, drug court judge, or drug court coordinator. Notice of the change shall be submitted to the Administrative Office of Courts not later than thirty (30) days after the change takes effect. The Administrative Office of Courts may require a new application and review as a result of the change.

(b) Failure of any applicant or holder of a certificate of approval to provide written notice of any change described in subsection (a), to the Administrative Office of Courts may result in the certificate of approval becoming void.

(c) Any court that terminates its certified drug court must provide the Administrative Office of Courts a written Notice of Intent, at least thirty (30) days prior to termination of its certified drug court, outlining its intent and reasons for termination.

Section 14. Funding Authorization

A drug court that is not certified by the Administrative Office of Courts, and an applicant whose plan of operation does not comply with the requirements of certification under these rules is not entitled to receive a favorable review or recommendation from the Administrative Office of Courts on any application for funding of services from state, federal, or private funding sources.

Section 15. Drug Court Management

(a) A certified drug court must have a drug court team which, at a minimum, consists of the following members:

(1) the drug court judge;

- (2) the local prosecuting attorney or a representative from the prosecuting attorney's office;
- (3) a local criminal defense attorney;
- (4) one (1) or more local treatment providers; and
- (5) the drug court coordinator.

(b) The drug court team must establish a policy and practice regarding regular meetings to discuss the compliance or non-compliance, progress, sanctions, or termination of participants prior to the participants' scheduled court appearances.

(c) The certified drug court shall maintain on file a description of the members of the drug court team and of the advisory body if one has been appointed.

(d) The drug court coordinator is responsible for the daily operation and administration of the certified drug court.

(e) The drug court coordinator shall be responsible for maintaining an accurate and current listing of all persons with access to the Drug Court Case Management System (DCCM).

(f) The drug court coordinator shall be responsible for ensuring that all users sign a confidentiality form prior to receiving access, as well as, assigning users appropriate levels of access thus maintaining the confidentiality of information contained within the Drug Court Case Management System (DCCM).

(g) The certified drug court must have a written statement of the goals and objectives in its policy and procedure manual that clearly reflects the certified drug court's philosophy and guides the operation of the certified drug court and the delivery of services. The drug court coordinator must review the statement annually and revise it as necessary.

(h) A certified drug court must have a policy and procedure manual that contains written policies and procedures for conducting day-to-day certified drug court activities. A certified drug court must do each of the following:

- (1) incorporate the key components into its policies, procedures, and practices;
- (2) update the manual as needed, but at least annually;
- (3) make the manual available to the drug court team and staff; and
- (4) verify that all practices are in keeping with the policies and procedures contained in the manual.

(i) The written policies and procedures of a certified drug court must include each of the

following:

(1) full documentation of the certified drug court's operational and administrative structure including one (1) or more organizational charts that:

- (A) depict certified drug court lines of authority;
- (B) identify all staff positions; and
- (C) accurately reflect current certified drug court practice;

(2) a description of staff functions;

(3) a description of the procedures the certified drug court will use to implement the principles and guidelines;

(4) a description of the criteria for the acceptance of substance use-involved offenders as participants who are eligible to receive one (1) or more services provided by the certified drug court;

(5) a policy and practice of nondiscrimination in providing drug court services, which must address nondiscrimination on the basis of each of the following:

- (A) race;
- (B) gender;
- (C) age;
- (D) religion;
- (E) ethnicity; and
- (F) disabilities;

(notwithstanding the policy and practice of nondiscrimination on basis of age, an adult drug court may exclude juveniles from participating, and a juvenile drug court may consider juveniles who are waived into adult court or excluded from juvenile court to be ineligible); and

(6) a policy and procedure for providing referral information to individuals denied admission to the certified drug court.

(j) Any time a certified drug court refers a participant to a provider for addiction treatment services not provided by the certified drug court, the certified drug court must do the following:

(1) determine annually that the addiction treatment services provider is certified by the State Department of Mental Health, or other appropriate state agency, or the equivalent agency of another state and obtain a copy of:

- (A) the provider's accreditation if the provider is an agency; and
- (B) the credentials of all individual treatment providers.

(k) Drug courts are encouraged to have a written referral agreement with the addiction treatment services provider that at a minimum includes procedures for the following:

- (1) initiation and acceptance of referrals;
- (2) exchange of participant-related information; and
- (3) post-referral reporting by the addiction treatment services provider that enables the drug court to perform its participant-monitoring responsibilities.

(l) A certified drug court may contract with a person, firm, corporation, association, or governmental entity, to provide one (1) or more services for the drug court except legal eligibility determination and case termination. A contractor must possess and demonstrate the capability to provide contractual services for the drug court in the manner intended and meet all requirements contained in these rules that apply to the services the contractor will provide.

Section 16. Drug Court Staff Requirements

(a) A certified drug court must have policies and procedures describing staff qualifications.

(b) A certified drug court must have written evidence that the Drug Court Coordinator and/or the Drug Court Case Manager achieved professional status by complying with the following:

- (1) a baccalaureate degree from an accredited university or college; or high school diploma or equivalent and four (4) years of relevant experience; and
- (2) twelve (12) hours of continuing education or training in substance abuse and criminal justice issues.

If the judge is unable to find a coordinator or case manager with the above requirements, the judge may request a waiver from the Administrative Office of Courts prior to hiring the employee.

(c) An individual will be allowed one (1) year cumulatively, from the date of first hire, as a drug court coordinator or case manager to achieve professional status.

(d) Professional status, once achieved, is maintained by documenting twelve (12) hours annually of continuing education or training related to substance abuse and criminal justice issues.

(e) A certified drug court must have written evidence that a Drug Court Field Officer and/or a Drug Court Treatment Counselor who are employed by the drug court program are in compliance with all experience and educational requirements of set forth in the Mississippi Drug Court Fiscal Policy manual for said positions.

(f) A certified drug court must have evidence that a

(g) Status of specimen collection staff.

(1) A certified drug court must require all of its employees, contractors, or volunteers performing specimen collection to have training and experience in each of the following:

- (A) the administration of chemical tests;
- (B) specimen collection;
- (C) chain-of-custody and documentation procedures;
- (D) confidentiality of specimen collection and chemical test results; and
- (E) the proper handling of specimens as biological waste.

(2) An individual will be allowed ninety (90) days cumulatively from the date of first hire to attain and document training as a member of the specimen collection staff.

Section 17. Reports and Evaluations

(a) A certified drug court must collect statistical data and submit to evaluations as required by the Administrative Office of Courts.

(b) A certified drug court must provide each participant with an opportunity to complete a participant survey intended to provide the certified drug court with the participant's written comments about the services provided. The survey must include an opportunity to comment on the following:

- (1) services provided directly by the certified drug court;
- (2) services provided by the certified drug court through a contractor; and
- (3) services or treatment provided by referral agency.

(c) The supervising judge or drug court judge shall do the following:

(1) complete a monthly programmatic report and submit it to the Administrative Office of Courts no later than the 10th of each month that details information pertaining to clients enrolled in the drug court program; and

(2) prepare and submit a written annual report to the Administrative Office of Courts no later than ninety (90) days after the close of the certified drug court's reporting period that includes:

- (A) a summary of the certified drug court's activities and

- accomplishments;
- (B) a summary of the certified drug court's income and expenditures;
- (C) documentation of any certification reviews or visits, if applicable; and
- (D) statistical data and results of evaluations for the preceding year.

Section 18. Eligibility Screening

A member or members of the drug court team, or person designated by the team, must be designated to conduct eligibility screenings. The designated member or members of the drug court team must do each of the following:

- (a) determine the offender's legal eligibility for drug court under Miss. Code Ann. § 9-23-15; and
- (b) recommend the offender to the drug court team as a potential participant in the certified drug court if appropriate.

Section 19. Orientation

(a) A certified drug court must have and observe a written policy and procedure for conducting an orientation for each participant, and when appropriate, the participant's family. Orientation may be conducted during an individual or a group appointment and must include explanations of the following:

- (1) specific eligibility requirements for drug court participation;
- (2) the services offered by the certified drug court either directly or through referral;
- (3) the requirements for successful completion of certified drug court, including a description of the scheduling and attendance requirements for court dates, chemical testing, day reporting, appointments with case managers or treatment providers, self help and other group meetings, and other regularly scheduled requirements;
- (4) conduct and behavior that could result in sanctions or termination from drug court;
- (5) possible sanctions for non-compliance with drug court requirements;
- (6) information about the treatment providers used by the drug court; and
- (7) information about the cost to participants for the user fee, chemical testing, and treatment expenses, and the procedure and schedule for paying those costs.

- (b) A certified drug court must have a form to advise each participant in writing of the

information described in subsection (a). The form must contain a signature line or a signature page for the participant to indicate that the participant has been provided a copy of the form and understands the information provided. The certified drug court must place the form or the signature page with the participant's original signature in the participant's record.

Section 20. Privacy and Confidentiality of Records

(a) A certified drug court must respect the privacy of each participant to the maximum extent feasible. The drug court must specify in policy and procedure how participant privacy is maintained.

(b) A certified drug court must have a written policy and procedure, conforming to applicable state and federal laws, that ensures the confidentiality and security of participant records.

(c) A certified drug court must have a release of information form used to inform each participant in writing of the certified drug court's policies and procedures described in subsection (a), and to obtain the participant's consent for the release of confidential information to specified individuals for certain purposes. The form must meet the following requirements:

- (1) contain a statement indicating that the participant understands that matters relating to the participant's case and compliance will be discussed in open court;
- (2) contain a signature line for the participant to indicate that the participant understands the rights described in the form;
- (3) contain a signature line for a witness; and
- (4) any blank lines remaining after the form has been completed must be crossed out or marked "NA" to ensure the forms cannot be altered after being signed by the participant.

The certified drug court must place the form with the participant's original signature in the participant's record.

(d) A certified drug court must ensure that access to the Drug Court Case Management System (DCCM) is controlled from unauthorized access to confidential information contained within the client's file by assigning users of the system appropriate levels of access.

Section 21. Screening

(a) A certified drug court must have a written policy and procedure for scheduling and conducting a participant screening.

(b) The screening must include a social history of the participant that provides, at a

minimum, information about the following:

- (1) statement of the presenting problem;
- (2) social, peer group, and environmental setting from which the participant comes;
- (3) military service history;
- (4) financial status;
- (5) alcohol and drug use of family members and attitudes toward such use;
- (6) occupational and educational status;
- (7) legal history and current legal status;
- (8) history of medical problems;
- (9) history of mental health problems; and
- (10) current thoughts of suicide or homicide.

(c) The screening must include an alcohol and drug use history of the participant, including information about prescription and over-the-counter drug use, that provides the following information:

- (1) substances used in the past;
- (2) substances used frequently, especially those used within the last forty-eight hours;
- (3) substances of preference;
- (4) frequency of drug use of each substance;
- (5) previous occurrences of overdose, withdrawal, or adverse drug reaction;
- (6) year of first use of each substance;
- (7) method of administration of each substance; and
- (8) history of previous substance abuse treatment received.

Section 22. Treatment Plan

The certified drug court must obtain a written copy of the treatment provider's initial or master treatment plan for each participant and any updates to that plan.

Section 23. Participation Agreement for Adult Drug Courts

(a) A certified drug court must develop a participation agreement that must contain each of the following:

- (1) the county of jurisdiction of the certified drug court;
- (2) all parties to the participation agreement;
- (3) the terms under which the participant enters the program, whether as a result of a guilty plea, a condition of probation, or the result of a violation of probation;
- (4) the case number or cause number;
- (5) the length of the drug court program;
- (6) a list of drug court requirements and participant responsibilities;
- (7) the effect of successful completion of drug court on the participant's case;
- (8) the consequences to the participant of unsuccessful completion or termination in the drug court;
- (9) information related to drug court fees and procedures for payment; and
- (10) a statement, if applicable, indicating that participation is contingent upon the participant's consent to the discussion in open court of information that would otherwise be confidential, relating to the participant's case and compliance.

(b) A certified drug court must provide each participant the opportunity to review the participation agreement with the advice of counsel.

(c) The participation agreement must include the signature of all parties to the agreement. A copy of the signed participation agreement must be maintained in the participant's record.

Section 24. Case Management

(a) The Drug Court Case Management System (DCCM), (from release of) shall be the primary case management system used by all certified drug court programs. The DCCM shall be used to track client progress from initial screening and throughout the program until release from the drug court's supervision.

(b) A certified drug court must have a policy and procedure in place for recording

participant progress in the record of the participant.

(c) The certified drug court must monitor the progress of each participant in satisfactorily completing the participant's treatment plan and participation agreement and other requirements governing the participant's conduct or performance during participation in the certified drug court. The monitoring procedure must, at a minimum, be capable of determining participants who have:

- (1) failed, as scheduled or required, to comply with the treatment plan;
- (2) failed to comply with the participation agreement or with the rules of conduct of a service provider to which the participant was referred; or
- (3) been successfully or unsuccessfully discharged or terminated by a service provider to which the participant was referred.

(d) The certified drug court shall establish a written policy and procedure for:

- (1) terminating a participant's court imposed obligation to participate in the certified drug court; and
- (2) providing written notice to the court after the participant has:
 - (A) successfully complied with the treatment plan and the participation agreement; or
 - (B) violated any requirement of the treatment plan or the participation agreement.

Section 25. Fiscal Management

(a) The certified drug court must have developed and implemented an accounting system with the capability to ensure financial transactions are thoroughly documented and handled in a uniform and consistent manner.

(b) The certified drug court must have a current budget.

(c) The certified drug court must have a documented schedule of fees.

Section 26. Personnel Management

(a) The certified drug court must adhere to a written personnel policy and procedure manual, which must contain at a minimum:

- (1) employment procedures;
- (2) rules for professional conduct;

(3) wages and benefits; and

(4) job descriptions for all personnel and volunteers, which accurately reflect their actual job situations, and describe, at a minimum:

- (A) job title;
- (B) qualifications;
- (C) credentials, if applicable;
- (D) duties and responsibilities; and
- (E) reporting and supervisory responsibilities.

(b) The certified drug court must keep records for all staff that contain the following information:

- (1) application or resume;
- (2) credentials;
- (3) verification;
- (4) licensure when applicable;
- (5) performance evaluations;
- (6) salary and position changes; and
- (7) documentation of staff development activities.

In addition a juvenile drug court must keep the criminal records check and child abuse registry check conducted for each staff member prior to the staff member's employment.

Section 27. Chemical Testing

(a) A certified drug court must establish and follow a written policy and procedure for scheduling and conducting chemical tests.

(b) At a minimum the policy on chemical tests must address the following:

- (1) the specific method or methods of chemical testing used by the drug court;
- (2) what samples the drug court collects and tests, such as urine, blood, breath, sweat, saliva, and hair;
- (3) substances identified by the tests;
- (4) the cutoff level for each substance;

- (5) circumstances requiring a confirmation test, if any;
- (6) the drug court's procedures for confirmation including the type of confirmation test used;
- (7) the party responsible for paying the cost of a confirmation test; and
- (8) collection procedures including staff training and chain of custody.

END