

Guidelines for Education and Training Standards of Court-Appointed Forensic Evaluators

These regulations are established pursuant to Penal Code section 1369, subdivision (h), to create standards for education and training that the courts shall consider in the appointment of psychiatrists or licensed psychologists who are to provide forensic evaluations in cases where a question has been raised, under Penal Code sections 1370, 1370.01, or 1370.1, as to a defendant's competency to stand trial.

Definitions.

“Evaluator” means a psychiatrist or licensed psychologist appointed by a court to provide Forensic Evaluations as defined in this section.

“Forensic Evaluation” means the assessment of a defendant, ordered by a court, in which the Evaluator opines on a specific psycho-legal referral question related to Penal Code section 1369 et seq., and competency to stand trial.

“Incompetent to stand trial” means that as a result of mental disorder (pursuant to Penal Code sections 1370 or 1370.01) or a developmental disability (pursuant to Penal Code section 1370.1) the defendant does not have the ability to understand the nature of the criminal proceedings against him or her or to assist counsel in the conduct of a defense in a rational manner.

“Licensed psychologist” means a person licensed as a psychologist by the California Board of Psychology.

“Psychiatrist” means a physician licensed by the California Medical Board and who has completed a Board-approved residency-training program in psychiatry.

“Psycho-legal” means specific applications of psychiatry/psychology to the applicable legal requirements.

Forensic Evaluator Training

- I. Pursuant to Penal Code section 1369, the court shall appoint a psychiatrist or licensed psychologist to evaluate whether a criminal defendant is incompetent to stand trial. This evaluation shall include the nature of a defendant's mental disorder, ability, or inability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner; and, if within the scope of his or her license, whether treatment with antipsychotic medication is medically appropriate and likely to restore the defendant to mental competence. In considering an appointment, the court shall only make such an appointment of a psychiatrist or licensed psychologist if one of the following criteria in section a-c is met, and subsection d is met.

- a. If a psychiatrist, that the psychiatrist has an active license in the State of California and certification by the American Board of Psychiatry and Neurology with added or special qualifications in forensic psychiatry.
 - b. If a psychologist, that the psychologist has an active psychology license in the State of California, and certification in forensic psychology by the American Board of Professional Psychology.
 - c. Training or experience consisting of:
 - i. At least 24 hours of specialized forensic training relating to incompetency evaluations or experience conducting such evaluations.
 - ii. At least eight hours of continuing education relating to forensic evaluations, completed in the 12 months preceding the appointment.
 - iii. Experience in drafting forensic reports submitted to a court, three of which have been redacted and peer-reviewed by a panel composed of members who are experienced in the criminal justice system and familiar with the issues of competency and criminal responsibility. Prior to appointment, if requested by the court, a psychiatrist or licensed psychologist shall provide verification that the peer review of forensic reports was completed by such a panel.
 - iv. If a psychiatrist: experience in the forensic treatment of incompetent defendants with antipsychotic medication.
 - v. If evaluating for developmental disabilities: experience in the treatment and assessment of individuals with developmental disabilities.
 - d. In addition to meeting one of the requirements in subsections a-c, must have completed, in the 24 months preceding the appointment, six hours of continuing education courses, as required by the respective licensing board, in forensic psychiatry if a psychiatrist or forensic psychology if a licensed psychologist.
- II. If there is no available psychiatrist or licensed psychologist within the county able to perform the evaluation within a reasonable period of time who also meets the guidelines in this subdivision, the court shall have discretion to appoint an expert with qualifications as close to those required by these regulations as possible.