**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE**

**FOR THE COURTS OF OHIO AND**

**THE OHIO CODE OF JUDICIAL CONDUCT**

Comments Requested: The Supreme Court of Ohio will accept public comments until August 7, 2012 on the following proposed amendments to the Rules for the Rules of Superintendence for the Courts of Ohio (Sup.R. 36.02 through 36.11 and Appendix I) and the Ohio Code of Judicial Conduct.

Comments on the proposed amendments should be submitted in writing to: Melissa Knopp, **Manager, Specialized Dockets Programs, Specialized Dockets Section,** 6th Floor, 65 South Front Street, Columbus, Ohio  43215-3431, or melissa.knopp@sc.ohio.gov not later than August 7, 2012.  If your comment refers to a specific provision of the proposed amendments, please use the line numbers that appear along the left margin.  Please include your full name and mailing address in any comments submitted by e-mail. Please submit comments via regular mail or e-email, not both.

Key to Proposed Amendment:

1. Original language of the rule appears as regular typescript.

2. Language to be deleted appears ~~thus~~.

3. Language to be added appears thus.

**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE**

**FOR THE COURTS OF OHIO**

**RULE 36.02. Creation of Commission on Specialized Dockets.**

There is hereby created by the Supreme Court the Commission on Specialized Dockets.

**RULE 36.03. Duties and Authority.**

**(A) Duties**

The Commission on Specialized Dockets shall advise the Supreme Court and its staff on all of the following:

(1) The promotion of statewide rules and uniform standards concerning specialized dockets in Ohio courts;

(2) The development and delivery of specialized docket services to Ohio courts, including training programs for judges and court personnel;

(3) The consideration of any other issues the commission deems necessary to assist the Supreme Court and its staff regarding specialized dockets in Ohio courts.

**(B) Authority**

The commission shall have no independent policy-setting authority.

**RULE 36.04. Membership.**

**(A) Appointments**

The Commission on Specialized Dockets shall consist of the following twenty-two members appointed by the Chief Justice and Justices of the Supreme Court:

(1) One member who shall be a judge of a court of common pleas assigned to a juvenile drug docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(2) One member who shall be a judge of a court of common pleas assigned to a juvenile family dependency treatment docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(3) One member who shall be a judge of a court of common pleas assigned to a juvenile mental health docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(4) One member who shall be a judge of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(5) One member who shall be a judge of a court of common pleas assigned to a drug docket of the court nominated by the President of the Ohio Common Pleas Judges Association;

(6) One member who shall be a judge of a court of common pleas assigned to a mental health docket of the court nominated by the President of the Ohio Common Pleas Judges Association;

(7) Two members, each of whom shall be a judge of a court of common pleas assigned to a specialized docket of the court nominated by the President of the Ohio Common Pleas Judges Association;

(8) One member who shall be a judge of a municipal court assigned to a drug docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio;

(9) One member who shall be a judge of a municipal court assigned to a mental health docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio;

(10) Three members, each of whom shall be a judge of a municipal court assigned to a specialized docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio;

(11) One member who shall be a magistrate of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Magistrates Association;

(12) One member who shall be a magistrate of a court of common pleas assigned to a family dependency treatment docket of the court nominated by the President of the Ohio Magistrates Association;

(13) One member who shall be a prosecutor nominated by the Executive Director of the Ohio Prosecuting Attorneys Association or the President of the Ohio Municipal Prosecuting Attorneys Association;

(14) One member who shall be a public defender nominated by the Director of the Ohio Public Defender Commission;

(15) One member who shall be an adult probation officer nominated by the President of the Ohio Chief Probation Officers Association;

(16) One member who shall be a juvenile probation officer nominated by the President of the Ohio Chief Probation Officers Association;

(17) One program coordinator;

(18) Two at-large members.

**(B) Nominations**

## The Administrative Director of the Supreme Court shall solicit a minimum of two nominees from each individual responsible for nominating a member of the commission pursuant to division (A) of this rule.

**(C) Qualifications**

Each commission member shall be a member of a treatment team established pursuant to Standard 1(B) of Appendix I to this rule.

**(D) Composition**

Commission membership should be broad based and multidisciplinary to represent a cross section of interests related to Specialized Dockets and reflect the gender, racial, ethnic, and geographic diversity of the state.

**RULE 36.05. Terms and Vacancies.**

**(A) Initial terms**

Initial terms for members of the Commission on Specialized Dockets shall be as follows:

(1) The member who is a judge of a court of common pleas assigned to a juvenile drug docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; the member who is a judge of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; one of the members who is a judge of a court of common pleas assigned to a specialized docket of the court nominated by the President of the Ohio Common Pleas Judges Association; the member who is a judge of a municipal court assigned to a mental health docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; one of the members who is a judge of a municipal court assigned to a specialized docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; the member who is a prosecutor nominated by the Executive Director of the Ohio Prosecuting Attorneys Association or the President of the Ohio Municipal Prosecuting Attorneys Association; the member who is a juvenile probation officer nominated by the President of the Ohio Chief Probation Officers Association; and one of the at-large members shall be appointed to a term that ends on December 31, 2013;

(2) The member who is a judge of a court of common pleas assigned to a juvenile family dependency treatment docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; the member who is a judge of a court of common pleas assigned to a drug docket of the court nominated by the President of the Ohio Common Pleas Judges Association; one of the members who is a judge of a court of common pleas assigned to a specialized docket of the court nominated by the President of the Ohio Common Pleas Judges Association; one of the members who is a judge of a municipal court assigned to a specialized docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; the member who is a magistrate of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Magistrates Association; the member who is a public defender nominated by the Director of the Ohio Public Defender Commission; and the program coordinator shall be appointed to a term that ends on December 31, 2014;

(3) The member who is a judge of a court of common pleas assigned to a juvenile mental health docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; the member who is a judge of a court of common pleas assigned to a mental health docket of the court nominated by the President of the Ohio Common Pleas Judges Association; the member who is a judge of a municipal court assigned to a drug docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; one of the members who is a judge of a municipal court assigned to a specialized docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; the member who is a magistrate of a court of common pleas assigned to a family dependency treatment docket of the court nominated by the President of the Ohio Magistrates Association; the member who is an adult probation officer nominated by the President of the Ohio Chief Probation Officers Association; and one of the at-large members shall be appointed to a term that ends on December 31, 2015.

**(B) Subsequent terms and reappointment**

Except as provided in division (A) of this rule, the term of a commission member shall be for three years. A commission member shall be eligible for reappointment, but shall not serve more than three consecutive full terms. A commission member shall be eligible for reappointment after serving three consecutive full terms, but only upon at least a one-year break in service. Abbreviated initial terms and appointments to fill a vacancy shall not constitute a full term.

**(C)** **Judge, magistrate, and attorney vacancies**

(1) If a commission member who is a judge involuntarily leaves office by reason other than Article IV, Section 6(C) of the Ohio Constitution, the member shall be disqualified and a vacancy shall occur.

(2) If a commission member who is a magistrate ceases to serve as a full-time magistrate with an Ohio court, the member shall be disqualified and a vacancy shall occur.

(3) If a commission member who is an attorney no longer practices in Ohio, the member shall be disqualified and a vacancy shall occur.

**(D) Filling of vacancies**

Vacancies on the commission shall be filled in the same manner as original appointments. A commission member appointed to fill a vacancy occurring prior to the expiration of the term for which the member’s predecessor was appointed shall hold the position for the remainder of that term.

## RULE 36.06. Chairperson and Vice-Chairperson.

The members of the Commission on Specialized Dockets shall elect one member as chairperson and one member as vice-chairperson. The chairperson and vice-chairperson shall serve for two years and may be reelected to a second two-year term. A commission member shall not serve as chairperson or vice-chairperson for more than two consecutive full terms, provided elections to fill a vacancy in the position of chairperson or vice-chairperson shall not constitute a full term.

## RULE 36.07. Staff Support.

The Administrative Director of the Supreme Court shall assign to the Commission on Specialized Dockets one or more Supreme Court employees as may be necessary for the commission’s work. The Supreme Court employee shall assist the commission as necessary, but shall at all times be considered an employee of the Supreme Court.

**RULE 36.08. Meetings.**

**(A) Manner**

The Commission on Specialized Dockets may meet in person or by telephonic or other electronicmeans available to the Supreme Court.

**(B) Frequency**

The commission shall meet as often as required to complete its work, provided the commission shall meet in person a minimum of two times per year. The commission may meet at the call of the chairperson or at the request of a majority of the commission members.

**(C) Scheduling**

All commission meetings shall be scheduled for a time and place so as to minimize costs to the Supreme Court and to be accessible to commission members, Supreme Court staff, and the public.

**(D) Public attendance and notice**

All commission meetings shall be open to the public. Public notice of all commission meetings shall be provided on the Supreme Court’s website.

**(E) Member attendance**

For a fully effective commission, a commission member shall make a good faith effort to attend, in person, each commission meeting. A commission member who is unable to attend a meeting due to an unavoidable conflict may request the chairperson allow the member to participate by telephonicor other electronicmeans available to the Supreme Court. A commission member participating in this manner shall be considered present for meeting attendance purposes. Should a commission member miss three consecutive meetings, the commission or the Supreme Court employee who staffs the commission may recommend to the Chief Justice and Justices of the Supreme Court that the member relinquish the member’s position on the commission.

**(F) Minutes**

Minutes shall be kept at every commission meeting and distributed to the commission members for review prior to and approval at the next meeting.

**(G) Quorum**

There shall be a quorum of the commission present when a majority of commission members is present for the meeting, including those members participating by telephonic or other electronic means.

**(H) Actions**

At any commission meeting at which a quorum is present, the commission members may take action by affirmative vote of a majority of the members in attendance.

**RULE 36.09. Subcommittees.**

**(A) Creation**

The Commission on Specialized Dockets may form such subcommittees it believes necessary to complete the work of the commission. A subcommittee should consist of select commission members and such other persons who the chairperson believes will assist in a full exploration of the issue under the review of the subcommittee.

**(B) Size**

A subcommittee should remain relatively small in size, not exceeding eight to twelve members, and have a ratio of commission members to non-commission members not exceeding one to three.

**(C) Application of rules**

Sup. R. 36.07, 36.08(A) through (D), (G), and (H), 36.10, and 36.12 through 36.15 shall also apply to the work of a subcommittee.

**RULE 36.10. Code of Ethics.**

Members of the Commission on Specialized Dockets shall comply with the Supreme Court’s Code of Ethics for Court Appointees. The Supreme Court employee who staffs the commission shall provide each commission member with a copy of the code following the member’s appointment to the commission and thereafter at the first meeting each year of the commission.

**RULE 36.11. Annual Report.**

By January 31st of each year, the chairperson of the Commission on Specialized Dockets shall issue a report to the Chief Justice and Justices of the Supreme Court detailing the activities and accomplishments of the commission during the previous calendar year. The chairperson shall submit the report to the Administrative Director of the Supreme Court for publication on the Supreme Court’s website and distribution to the Chief Justice and Justices.

**RULE 36.12. Work Product.**

The work product of the Commission on Specialized Dockets shall be the property of the Supreme Court.

**RULE 36.13. Budget.**

The budget of the Commission on Specialized Dockets shall be set by the Supreme Court through its internal budget process and as implemented by the Supreme Court Specialized Dockets Section. The commission shall have no authority to set its own budget.

**RULE 36.14. Compensation.**

A member of the Commission on Specialized Dockets shall serve without compensation.

**RULE 36.15. Reimbursement of Expenses.**

A member of the Commission on Specialized Dockets shall be reimbursed for expenses incurred in service to the commission as permitted by the Supreme Court’s Guidelines for Travel by Court Appointees.

**RULE 36.20. Specialized ~~Dockets~~ Docket Certification.**

~~(A)~~ ~~Procedure for certification~~

A court of common pleas, municipal court, or county court or division of the court operating or establishing a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may ~~apply for~~ receive certification of the session from the Supreme Court~~. To receive and maintain certification, the court or division shall do~~ by doing both of the following:

~~(1)~~ ~~Adopt~~ (A) Complying with and adopting a local rule or issuing an administrative order implementing ~~and comply with~~ the “Specialized Docket Standards,” as set forth in Appendix I to this rule~~, and any procedures established by the Specialized Dockets Section of the Supreme Court pursuant to division (C) of this rule~~;

~~(2)~~ ~~Every three years and whenever there is a change in the judge assigned to the session, submit an application to the section on a form prescribed by the section and satisfactorily complete a site visit conducted by the section, provided the section may abbreviate the initial certification period to allow for rotating certification periods among the courts and divisions~~ (B) Successfully completing the certification application process pursuant to Sup. R. 36.21 through 36.26.

**~~(B)~~ ~~Specialized docket title~~**

~~A particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may be styled a “specialized docket” only upon receipt of certification pursuant to division (A) of this rule.~~

**~~(C)~~ ~~Establishment of procedures~~**

~~The Specialized Dockets Section of the Supreme Court may establish procedures as needed to implement this rule.~~

**~~(D)~~ ~~Scope of rule~~**

~~This rule does not apply to the following:~~

~~(1)~~ ~~A commercial docket of a court of common pleas designated by the Chief Justice of the Supreme Court pursuant to Temporary Rule 1.02 of the Rules of Superintendence for the Courts of Ohio;~~

~~(2)~~ ~~A housing docket or division in a municipal court;~~

~~(3)~~ ~~An environmental docket or division in a municipal court.~~

RULE 36.21. Submission of Certification Application.

(A) General

A court of common pleas, municipal court, or county court or division of the court seeking certification from the Supreme Court of a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals pursuant to Sup. R. 36.20 shall submit an application to the Specialized Dockets Section of the Supreme Court. The application shall be in the form and manner as prescribed by the section and include all of the following:

(1) A copy of the local rule adopted or administrative order issued by the court or division pursuant to Sup. R. 36.20(A);

(2) A copy of the program description created by the court or division pursuant to Standard 1(C) of Appendix I to this rule;

(3) A copy of the written participation agreement and participant handbook created by the court or division pursuant to Standard 1(D) of Appendix I to this rule.

(B) Notification of receipt

Upon receipt of an application submitted by a court or division pursuant to division (A) of this rule, the section shall provide written notice of the receipt to the court or division.

RULE 36.22. Initial Review of Certification Application.

(A) Review by Section

Upon receipt of an application for certification submitted by a court of common pleas, municipal court, or county court or division of the court pursuant to Sup. R. 36.21(A), staff of the Specialized Dockets Section of the Supreme Court shall review the application to determine whether the application is complete.

(B) Deficiency in application

If pursuant to division (A) of this rule it is determined that an application for certification is incomplete, staff of the section shall provide written notice to the court or division identifying the deficiency. If the court or division fails to correct the deficiency within thirty days after the notice is issued, the manager of the section, pursuant to Sup. R. 36.26(A), may recommend the application be denied.

RULE 36.23. Substantive Review of Certification Application.

(A) Review by Section

Upon the determination of staff of the Specialized Dockets Section of the Supreme Court pursuant to Sup. R. 36.22(A) that an application for certification submitted by a court of common pleas, municipal court, or county court or division of the court pursuant to Sup. R. 36.21(A) is complete, staff of the section shall substantively review the application by assessing the application and the accompanying documents for completeness and compliance with the Specialized Docket Standards of Appendix I to this rule.

(B) Deficiency in application

If pursuant to division (A) of this rule it is determined that an application for certification is substantively deficient, staff of the section shall provide written notice to the court or division identifying the deficiency. If the court or division fails to correct the deficiency within forty-five days after the notice is issued, the manager of the section, pursuant to Sup. R. 36.26(A), may recommend the application be denied.

RULE 36.24. Initial Certification.

Upon the determination of staff of the Specialized Dockets Section of the Supreme Court pursuant to Sup. R. 36.23(A) that an application for certification submitted by a court of common pleas, municipal court, or county court or division of the court pursuant to Sup. R. 36.21(A) is substantively complete, the court or division shall receive initial certification of the session. The initial certification shall be effective until a determination is made on final certification pursuant to Sup. R. 36.26.

RULE 36.25. Site Review.

(A) Performance of site review

Staff of the Specialized Dockets Section of the Supreme Court shall conduct a site review of the treatment team meeting and status review hearing for a court of common pleas, municipal court, or county court or division of the court that has received initial certification pursuant to Sup. R. 36.24. The section shall provide the court or division written notice specifying the date and time for the visit and identifying which staff of the court or division shall be available for interview during the visit. If the identified staff are not available for interview during the visit, the manager of the section, pursuant to Sup. R. 36.26(A), may recommend the application be denied.

(B) Unsatisfactory site review

If upon conducting the site review pursuant to division (A) of this rule a deficiency is identified, staff of the section shall provide written notice to the court or division identifying the deficiency. If the court or division fails to correct the deficiency within forty-five days after the notice is issued, the manager of section, pursuant to Sup. R. 36.26(A), may recommend the application be denied.

RULE 36.26. Determination on Final Certification.

(A) Recommendation on Certification

Upon the completion of the review of an application for certification and a site visit pursuant to Sup. R. 36.22 through 36.25, the manager of the Specialized Dockets Section of the Supreme Court shall issue a recommendation on final certification of the session of the court of common pleas, municipal court, or county court or division of the court. The manager shall provide written notice of the recommendation to the court or division.

(B) Review by Commission

The Commission on Specialized Dockets shall review and make a determination on a recommendation on final certification issued by the manager of the section pursuant to division (A) of this rule. Staff of the section shall provide written notice to the court or division specifying the date and time the commission will meet to review the recommendation. The notice shall also inform the court or division that at the meeting a representative of the court or divisionmay be present and offer evidence and arguments in support of the application for certification. The decision of the commission on certification shall be final and not appealable.

**RULE 36.27. Specialized Docket Title.**

Beginning July 1, 2013, a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may be styled a “specialized docket” only upon receipt of initial certification pursuant to Sup. R. 36.24 or final certification pursuant to Sup. R. 36.26.

RULE 36.28. Maintenance of Certification.

To maintain certification of a specialized docket issued by the Supreme Court pursuant to Sup. R. 36.26, the court of common pleas, municipal court, or county court or division of the court operating the specialized docket shall do both of the following:

(A) Every three years after receipt of certification or within six months after a change in the judge assigned to the session, whichever occurs first, successfully recomplete the certification application process pursuant to Sup. R. 36.21 through 36.26;

(B) Notify the Specialized Dockets Section of the Supreme Court of any changes to the procedures of or the documents or treatment providers used by the section in the specialized docket.

**RULE 36.29. Scope of Rules.**

Sup. R. 36.20 through 36.28 shall not apply to any a commercial docket of a court of common pleas, a housing docket or division in a municipal court, or an environmental docket or division in a municipal court.

**RULE 99. Effective Date.**

**\*\*\***

(TT) The amendments to Sup. R. 36.02 through 36.29 and Appendix I adopted by the Supreme Court on August 8, 2011 and \_\_\_\_\_\_\_\_\_\_\_\_\_ shall take effect on January 1, 2013.

**\*\*\***

**APPENDIX I**

**Specialized docket standards**

**Overview.**

The following standards are established to guide courts of common pleas, municipal courts, and county courts and the divisions of these courts in the planning and implementation of all specialized dockets. The standards set forth minimum requirements for the certification and operation of all specialized dockets. Accompanying ~~each standard~~ the standards are recommended practices that each specialized docket is encouraged to follow. While the standards seek to create a minimum level of uniform practices for specialized dockets, they still allow local specialized dockets to innovate and tailor their specialized docket to respond to local needs and resources.

**Standard 1. Planning Process.**

A specialized docket shall utilize a comprehensive and collaborative planning process that results in all of the following:

(A) Development of an agreement among relevant parties setting forth the terms of the specialized docket operations. Relevant parties may include, but are not limited to, the specialized docket judge; the court; the prosecutor; defense counsel; licensed treatment providers; children services for family dependency treatment dockets; and, for criminal and juvenile specialized dockets, the probation department, the parole authority, and law enforcement agencies.

(B) Establishment of an advisory committee and a treatment team chaired by the specialized docket judge;

(C) ~~Establishment~~ Creation of a program description that contains written policies and procedures defining the goals and objectives for the specialized docket, identifying the target population, detailing program entry and case flow, and providing written roles and responsibilities of each treatment team member;

(D) Creation of a written participation agreement and participant handbook detailing the rights and responsibilities of participants in the specialized docket.

**Recommended Practices**

**(A) Advisory committee**

(1) A specialized docket judge should create an advisory committee comprised of key officials and policymakers to provide input on specialized docket policies and operations and to communicate regularly with local officials.

(2) An advisory committee should typically take three to six months to plan and prepare for implementation of a specialized docket. This amount of time allows for a cohesive team to effectively and collaboratively reach consensus on the variety of issues inherent in the implementation of a specialized docket.

(3) An advisory committee should develop a written agreement or memorandum of understanding setting forth the terms of a specialized docket and the responsibilities of relevant parties to specialized docket operations.

**(B) Treatment team members**

A treatment team is responsible for implementing daily operations of a specialized docket. ~~The~~ In addition to the specialized docket judge, the treatment team may include, but is not limited to, the following members:

(1) ~~A judge~~;

~~(2)~~ Probation officers;

~~(3)~~(2) Parole officers;

~~(4)~~(3) Licensed treatment providers;

~~(5)~~(4) A prosecutor;

~~(6)~~(5) Defense counsel;

~~(7)~~(6) A specialized docket program coordinator;

~~(8)~~(7) Case managers;

~~(9)~~(8) Law enforcement personnel;

~~(10)~~(9) Jail, prison, or juvenile detention personnel;

~~(11)~~(10) Children services personnel;

~~(12)~~(11) Representatives of other community-based stakeholders.

**(C) Membership term**

For consistency and stability in specialized docket operations, treatment team members should serve on the treatment team for a minimum of one year.

**(D) Community outreach**

A treatment team should work with local community members to ensure the best interests of the community are considered. Treatment team members should engage in community outreach activities to build partnerships that will improve outcomes and support specialized docket sustainability. The advisory committee should develop and regularly review a community outreach and education plan.

**(E) Sustainability plan**

An advisory committee should develop and annually review a written sustainability plan.

**Standard 2. Non-Adversarial Approach.**

A specialized docket shall incorporate a non-adversarial approach while recognizing all of the following:

(A) A prosecutor’s distinct role in pursuing justice and protecting public safety and victim’s rights;

(B) A defense counsel’s distinct role in preserving the constitutional rights of the specialized docket participant;

(C) The participant’s right to request the attendance of defense counsel during the portion of a specialized docket treatment team meeting concerning the participant;

(D) A participant’s right to a detailed, written participation agreement and participant handbook outlining the requirements and process of the specialized docket.

**Recommended Practices**

For consistency in the non-adversarial approach, prosecutors and defense counsel should be trained in specialized docket processes.

**Standard 3. Legal and Clinical Eligibility and Termination.**

**(A) Criteria**

A specialized docket shall have written legal and clinical eligibility, completion, termination, and neutral discharge criteria that have been collaboratively developed, reviewed, and agreed upon by the relevant parties identified in paragraph (A) of Standard 1 of these standards.

**(B) Decision on admission or termination**

A specialized docket judge shall have discretion to decide the admission into and termination from a specialized docket in accordance with the written criteria for the specialized docket.

**(C) No right to participate**

The written legal and clinical eligibility and termination criteria do not create a right to participation in a specialized docket.

**Recommended Practices**

**(A) Legal eligibility screening**

A specialized docket should have legal eligibility screening based on established written criteria.

**(B) Eligibility criteria factors**

In developing eligibility criteria, an advisory committee should take into consideration all of the following factors:

(1) A process to consider the inclusion of eligible repeat and high-risk participants;

(2) A provision to evaluate mitigating and aggravating circumstances of current or prior court involvement;

(3) Careful examination of the circumstances of prior juvenile adjudications and the age of the participant at the time of the offense;

(4) The age of prior disqualifying offenses;

(5) A forensic assessment to determine if the individual is legally competent to participate in the specialized docket program, should the mental health competence of the individual be in question.

**(C) Unsuccessful termination and neutral discharge**

As part of the written termination criteria, a specialized docket should have clear policies regarding unsuccessful termination and neutral discharge.

 **Standard 4. Assessment and Referral.**

A specialized docket shall promptly assess individuals and refer them to the appropriate services. The assessment and referral shall meet all of the following requirements:

(A) All chemical dependency, mental health, and other programming assessments shall include available collateral information to ensure the accuracy of the assessment;

(B) The participant or the participant’s guardian shall complete a release of information form to provide for communication about ~~confidentiality~~ confidential information, participation/progress in treatment, and compliance with the provisions of relevant law, including the "Health Insurance Portability and Accountability Act of 1996," [42 U.S.C. 300gg-42,](https://www.lexis.com/research/buttonTFLink?_m=bd969a662c212e2270d2390b05f79ce1&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5bORC%20Ann.%201751.18%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=6&_butInline=1&_butinfo=42%20USC%20300GG-42&_fmtstr=FULL&docnum=4&_startdoc=1&wchp=dGLbVlb-zSkAB&_md5=187130a68e75a7f513a7565fff2f4b39) as amended, and sections 2151.421 and 2152.99 of the Revised Code;

(C) Participants shall be placed as soon as possible in appropriate treatment services and programs and under reporting supervision to monitor compliance with court requirements;

(D) All screenings and assessments for treatment determinations shall be provided by programs or persons who are appropriately licensed and trained to deliver such services according to the standards of the profession.

**Recommended Practices**

**~~(A)~~ ~~Licenses and credentials~~**

~~Individuals providing screening and assessment for treatment determinations should possess appropriate licenses and credentials to provide such services.~~

**~~(B)~~ ~~Clinical assessments and treatment recommendations~~**

A treatment team should consider, but is not obligated to follow, clinical assessments or treatment recommendations.

**Standard 5. Individualized Needs and Evidence-Based Practices.**

A specialized docket shall have a plan to provide services that meet the individualized needs of each participant and incorporate evidence-based strategies for the participant population. Such plans shall take into consideration services that are gender-responsive and culturally appropriate and that effectively address co-occurring disorders.

**Recommended Practices**

**(A) Appropriateness and clinical necessity of case plans and services**

Case plans and services should be appropriate and clinically necessary to the degree that available resources allow.

**(B) Ancillary services**

Ancillary services should include all of the following:

(1) Education;

(2) Vocational training;

(3) Employment;

(4) Transportation;

(5) Housing;

(6) Domestic violence programming;

(7) Physical, mental, and dental health.

**Standard 6. Participant Monitoring.**

A specialized docket shall monitor each participant’s performance and progress and incorporate all of the following:

(A) Regular treatment team meetings prior to the status review hearings;

(B) Status review hearings, as established by Standard 7 of these standards;

(C) Ongoing communication among the ~~relevant parties~~ treatment team members, including frequent exchanges of timely and accurate information about the participant's overall performance;

(D) Progression through the specialized docket based upon the participant’s performance in the treatment plan and compliance with requirements of the specialized docket phases. A participant’s progress through the specialized docket phases is not to be based solely upon preset timelines.

(E) Explanation to the participant of responses to compliance and noncompliance, including criteria for termination.

**Recommended Practices**

**(A) Appearance at single court session**

Having a significant number of specialized docket participants appear at a single court session gives the opportunity to educate the participant as to the benefits of court compliance and consequences for noncompliance.

**(B) Sharing of decision making and conflict resolution**

Mechanisms for sharing decision making and resolving conflicts among treatment team members should be established, emphasizing professional integrity, confidentiality, and accountability.

**Standard 7. Status Review Hearings.**

**(A) Ongoing judicial interaction**

A specialized docket shall incorporate ongoing judicial interaction with each participant as an essential component of the docket.

**(B) Appearance before specialized docket judge**

(1) At a minimum, a specialized docket participant shall appear before the specialized docket judge at least twice monthly during the initial phase of the specialized docket.

(2) Thereafter, a specialized docket participant shall regularly appear before the specialized docket judge to review the participant’s progress through the specialized docket.

**Recommended Practices**

**(A) Appearances before specialized docket judge during initial phase**

A specialized docket participant should appear weekly before the specialized docket judge during the initial phase of the specialized docket and, thereafter, at least monthly. Frequent status review hearings establish and reinforce the specialized docket’s policies and ensure effective supervision of the participant.

**(B) Judicial knowledge of treatment and programming methods**

The specialized docket judge should be knowledgeable about treatment and programming methods and their limitations.

**(C) Hearings before the same specialized docket judge**

Hearings should be before the same specialized docket judge for the length of each participant’s time in the specialized docket.

**Standard 8. Substance Monitoring.**

A specialized docket shall monitor a specialized docket participant’s substance use by random, frequent, and observed alcohol and other drug testing protocols which include all of the following:

(A) Written policies and procedures for sample collection, sample analysis, and result reporting. The testing policies and procedures shall address elements that contribute to the reliability and validity of the testing process.

(B) Individualized drug and alcohol testing plans. All testing shall be random, frequent, and observed.

(C) Clearly established plans for addressing a participant who tests positive at intake or who relapses. The plans shall include treatment guidelines and sanctions, when appropriate, that are enforced and reinforced by the specialized docket judge.

(D) Immediate notification of the court when the participant tests positive, fails to submit to testing, submits an adulterated sample or the sample of another individual, or dilutes the sample. Failure to submit to testing, submitting an adulterated sample or the sample of another individual, or diluting the sample shall be treated as positive tests and immediately sanctioned.

(E) Testing sufficient to include the participant’s primary substance of dependence,as well as a sufficient range of other common substances.

**Recommended Practice**

When testing for alcohol, specialized dockets should strongly consider devices worn by the specialized docket participant, portable breath tests, saliva tests, and the use of scientifically validated technology used to detect ethyl alcohol.

**Standard 9. Treatment and other Rehabilitation Services.**

**(A) Prompt access**

A specialized docket shall provide prompt access to a continuum of approved treatment and other rehabilitation services.

**(B) Treatment plan and activities record**

A specialized docket shall maintain a current treatment plan and record of activities.

**(C) Licensing and training**

All required treatment and programming shall be provided by programs or persons who are appropriately licensed and trained to deliver such services according to the standards of their profession.

**Recommended Practices**

**(A) Treatment team knowledge**

Treatment team members should make reasonable efforts to observe all required specialized docket service provider programs to gain confidence in the services provided and to better understand the treatment and programming process.

 **(B) Separate tracks for specialized docket participants**

Whenever possible, service providers should have separate tracks for specialized docket participants.

**Standard 10. Incentives and Sanctions.**

Immediate, graduated, and individualized incentives and sanctions shall govern the responses of a specialized docket to a specialized docket participant’s compliance or noncompliance.

**Recommended Practices**

**(A) Adjustment in treatment services**

Adjustment in treatment services, as well as participation in community-based mutual support meetings, should be based upon ~~only~~ the clinically informed interests of the participant.

**(B) Revision of time between status review hearings**

Time between status review hearings should be increased or decreased based upon compliance with treatment protocols and progress observed.

**(C) Incentives for compliance**

Incentives for a specialized docket participant’s compliance vary in intensity and may include, but are not limited to, the following:

(1) Encouragement and praise from the specialized docket judge;

(2) Ceremonies and tokens of progress, including advancement in specialized docket phases;

(3) Reduced supervision contacts;

(4) Decreased frequency of court appearances;

(5) Reduced fines or fees;

(6) Increased or expanded privileges;

(7) Encouragement to increase participation in positive activities the participant finds pleasurable, such as writing, art work, or other positive hobbies;

(8) Gifts of inspirational items, including books, pictures, and framed quotes;

(9) Assistance with purchasing clothing for job interviews;

(10) Gift cards for restaurants, movie theaters, recreational activities, or personal care services;

(11) Gifts of small personal care items, hobby or pet supplies, plants or small household items;

(12) Dismissal of criminal charges or a reduction in the term of probation;

(13) Reduced or suspended jail, prison, or juvenile detention days;

(14) Graduation from the specialized docket.

**(D) Sanctions for noncompliance**

Sanctions for a specialized docket participant’s noncompliance vary in intensity and may include, but are not limited to, the following:

(1) Warnings and admonishment from the specialized docket judge;

(2) Demotion to an earlier specialized docket phase;

(3) Increased frequency of drug or alcohol testing and court appearances;

(4) Refusal of specific requests, such as permission to travel;

(5) Denial of additional or expanded privileges or rescinding privileges previously granted;

(6) Increased supervision contacts and monitoring;

(7) Individualized sanctions, such as writing essays, reading books, or performing other activities to reflect upon unacceptable behavior;

(8) Imposition of suspended fines and costs;

(9) Community service or work programs;

(10) Jail or out-of-home placement, including detention for juveniles;

(11) Community control or probation violation;

(12) Termination from the specialized docket.

**Standard 11. Professional Education.**

A specialized docket shall assure continuing interdisciplinary education of treatment team members to promote effective specialized docket planning, implementation, and operations.

**Recommended Practices**

**(A) Continuing education plan**

A specialized docket should establish and maintain a viable continuing education plan for specialized docket personnel.

**(B) Assessments and reviews**

At a minimum of once every two years, a specialized docket should assess specialized docket team functionality, review all policies and procedures, and assess the overall functionality of the specialized docket.

**(C) Treatment team member transition**

A specialized docket should plan for the transition of a treatment team member and provide sufficient training and program documentation for new treatment team members.

**(D) Mentor courts**

A specialized docket should identify and build a relationship with a mentor court of its specific model.

**(E) Observation of other specialized dockets**

A specialized docket should regularly observe other specialized dockets.

**(F) Ohio Specialized Dockets Practitioner Network**

Specialized docket personnel should participate in the Ohio Specialized Dockets Practitioner Network by attending sub-network meetings, trainings, and the annual conference.

**Standard 12. Effectiveness Evaluation.**

A specialized docket judge shall evaluate the effectiveness of the specialized docket by doing each of the following:

(A) Reporting data as required by the Supreme Court, including information to assess compliance with these standards;

(B) Engaging in on-going data collection in order to evaluate whether the specialized docket is meeting its goals and objectives.

**Recommended Practices**

            To evaluate effectiveness, a specialized docket judge should establish a formal data collection plan. The plan should identify who is collecting the data, how the data is collected, and the time frames for conducting program reviews based on the data. Treatment team members should provide data.  The specialized docket should develop policies concerning protection of confidential information and identities when collecting data.

**AMENDMENTS TO THE**

**OHIO CODE OF JUDICIAL CONDUCT**

**Terminology**

As used in Canons 1 to 3 of this Code:

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“Specialized docket” means a ~~docket or~~ particular session of court ~~specifically created by statute or pursuant to the authority~~ that has received initial or final certification from the Supreme Court pursuant to Rule 36.24 or 36.26 of the Rules of Superintendence of the Courts of Ohio ~~to address similar cases and parties~~. “Specialized docket” includes, but is not limited to, drug courts, mental health courts, domestic violence courts, child support enforcement courts, sex offender courts, OMVI/DUI courts, and reentry courts~~, housing courts, and environmental courts~~. Courts created in the Ohio Constitution or Revised Code, including appellate courts, common pleas courts, and divisions of a common pleas court, municipal courts, and county courts are not, without more, a specialized docket. See Rule 2.9.

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**FORM OF CITATION, EFFECTIVE DATE, APPLICATION**

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 (F) The amendment to the Terminology section adopted by the Supreme Court of Ohio on \_\_\_\_\_\_\_\_\_\_\_\_\_, shall take effect on July 1, 2013.