

Section 1. PD 1.04(5)(bc) is created.

PD 1.04(5)(bc) *Provisional appellate certification.* The appellate division director, or his or her designee, may provisionally certify attorneys to receive appointments for appellate cases;

1.The appellate division director may change an attorney’s certification status to provisional certification in lieu of initiating decertification.

2. All appellate certifications granted after January 1, 2003, shall be provisional certifications.

3.After one year of provisional certification, the appellate division director, or his or her designee, shall review the performance of the attorney and determine whether the provisional certification should continue, the provisional certification should become non-provisional, or the attorney should be excluded from the appellate certification list.

4.The review may include file reviews, brief reviews, phone conferences, personal conferences, client communications, and reviews of court records. Appellate division performance standards shall provide a guide to determining whether the provisional certification should be continued, discontinued, or converted to non-provisional certification, but the determination of certification status is at the discretion of the appellate division director, or his or her designee.

5.If the provisional certification is continued under subd. 3., the attorney’s performance shall be reviewed again after a period of time set by the appellate division director, or his or her designee, not to exceed one year.

6.Appeals from decisions under this paragraph shall proceed as provided in PD 1.05.

Section 2. PD 1.04(5)(d)3. and (e)3. are amended.

PD 1.04(5)(d)3. Met the criteria of ~~sub. (2) (e)~~ par. (c)2 or attended 6 hours of state public defender approved legal education in criminal law within one year immediately preceding application for certification.

PD 1.04(5)(e)3. Met the criteria of ~~sub. (2) (e)~~ par. (c)2. or attended 6 hours of state public defender approved legal education in criminal law in the year immediately preceding application for certification.

This rule shall take effect on the first day of the month commencing after the date of publication, pursuant to s. 227.22 (2) (intro.), Stats.