

The Judicial Council on November 30, 2018, adopted rule 4.562 of the California Rules of Court, effective April 25, 2019, to read:

1 **Rule 4.562 Recruitment and determination of qualifications of attorneys for**  
2 **appointment in death penalty–related habeas corpus proceedings**

3  
4 **(a) Purpose**

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6 This rule provides for a panel of attorneys from which superior courts may appoint  
7 counsel in death penalty–related habeas corpus proceedings.

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9 **(b) Regional habeas corpus panel committees**

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11 Each Court of Appeal must establish a death penalty–related habeas corpus panel  
12 committee as provided in this rule.

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14 **(c) Composition of regional habeas corpus panel committees**

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16 (1) The administrative presiding justice of the Court of Appeal appoints the  
17 members of each committee. Each committee must be composed of:

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19 (A) One justice of the Court of Appeal to serve as the chair of the  
20 committee;

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22 (B) A total of three judges from among those nominated by the presiding  
23 judges of the superior courts located within the appellate district; and

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25 (C) A total of three attorneys from among those nominated by the entities  
26 in the six categories below. At least two of those appointed must have  
27 experience representing a petitioner in a death penalty–related habeas  
28 corpus proceeding.

29  
30 (i) An attorney nominated by the Habeas Corpus Resource Center;

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32 (ii) An attorney nominated by the California Appellate Project–San  
33 Francisco;

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35 (iii) An attorney nominated by the appellate project with which the  
36 Court of Appeal contracts;

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38 (iv) An attorney nominated by any of the federal public defenders’  
39 offices of the federal districts in which the participating courts are  
40 located;

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(v) An attorney nominated by any of the public defenders' offices in a county where the participating courts are located; and

(vi) An attorney nominated by any entity not listed in this subparagraph, if the administrative presiding justice requests such a nomination.

(2) Each committee may also include advisory members, as authorized by the administrative presiding justice.

(3) The term of the chair and committee members is three years. Terms are staggered so that an approximately equal number of each committee's members changes annually. The administrative presiding justice has the discretion to remove or replace a chair or committee member for any reason.

(4) Except as otherwise provided in this rule, each committee is authorized to establish the procedures under which it is governed.

**(d) Regional habeas corpus panel committee responsibilities**

The committee has the following responsibilities:

(1) *Support superior court efforts to recruit applicants*

Each committee must assist the participating superior courts in their efforts to recruit attorneys to represent indigent petitioners in death penalty-related habeas corpus proceedings in the superior courts.

(2) *Accept applications*

Each committee must accept applications from attorneys who seek to be included on the panel of attorneys qualified for appointment in death penalty-related habeas corpus proceedings in the superior courts.

(A) The application must be on a *Declaration of Counsel re Minimum Qualifications for Appointment for Death Penalty-Related Habeas Corpus Proceedings* (form HC-100).

(B) Except as provided in (C), each committee must accept applications from attorneys whose principal place of business is within the appellate district and from only those attorneys.

1           (C) In addition to accepting applications from attorneys whose principal  
2           place of business is in its district, the First Appellate District committee  
3           must also accept applications from attorneys whose principal place of  
4           business is outside the state.

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6           (3) Review qualifications

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8           Each committee must review the applications it receives and determine  
9           whether the applicant meets the minimum qualifications stated in this  
10          division to represent persons in death penalty–related habeas corpus  
11          proceedings in the superior courts.

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13          (4) Provide names of qualified counsel for statewide panel

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15          (A) If a committee determines by a majority vote that an attorney is  
16          qualified to represent persons in death penalty–related habeas corpus  
17          proceedings in the superior court, it must include the name of the  
18          attorney on a statewide panel of qualified attorneys.

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20          (B) Committees will provide to the Habeas Corpus Resource Center the  
21          names of attorneys who the committees determine meet the minimum  
22          qualifications. The Habeas Corpus Resource Center must consolidate  
23          the names into a single statewide panel, update the names on the panel  
24          at least quarterly, and make the most current panel available to superior  
25          courts on its website.

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27          (C) Unless removed from the panel under (d)(6), an attorney included on  
28          the panel may remain on the panel for up to six years without  
29          submitting a renewed application.

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31          (D) Inclusion on the statewide panel does not entitle an attorney to  
32          appointment by a superior court, nor does it compel an attorney to  
33          accept an appointment.

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35          (5) Match qualified attorneys to cases

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37          Each committee must assist a participating superior court in matching one or  
38          more qualified attorneys from the statewide panel to a person for whom  
39          counsel must be appointed under Government Code section 68662, if the  
40          court requests such assistance.

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1 (6) Remove attorneys from panel

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3 Suspension or disbarment of an attorney will result in removal of the attorney  
4 from the panel. Other disciplinary action, or a finding that counsel has  
5 provided ineffective assistance of counsel, may result in a reevaluation of the  
6 attorney’s inclusion on the panel by the committee that initially determined  
7 the attorney to have met minimum qualifications.

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9 (e) **Consolidated habeas corpus panel committees**

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11 The administrative presiding justices of two or more Courts of Appeal may elect,  
12 following consultation with the presiding judges of the superior courts within their  
13 respective appellate districts, to operate a single committee to collectively fulfill the  
14 committee responsibilities for the superior courts in their appellate districts.

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16 (f) **Recruitment of qualified attorneys**

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18 The superior courts in which a judgment of death has been entered against an  
19 indigent person for whom habeas corpus counsel has not been appointed must  
20 develop and implement a plan to identify and recruit qualified counsel who may  
21 apply to be appointed.

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23 (g) **Local rule**

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25 A superior court may, by adopting a local rule, authorize appointment of qualified  
26 attorneys who are not members of the statewide panel. The local rule must establish  
27 procedures for submission and review of a *Declaration of Counsel re Minimum*  
28 *Qualifications for Appointment in Death Penalty–Related Habeas Corpus*  
29 *Proceedings* (form HC-100) and require attorneys to meet the minimum  
30 qualifications under rule 8.652(c).

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32 **Advisory Committee Comment**

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34 **Subdivisions (d) and (f).** In addition to the responsibilities identified in subdivisions (d) and (f),  
35 courts and regional committees are encouraged to support activities to expand the pool of  
36 attorneys that are qualified to represent petitioners in death penalty–related habeas corpus  
37 proceedings. Examples of such activities include providing mentoring and training programs and  
38 encouraging the use of supervised counsel.