



A Guide to Preparing the Adult Post-Conviction or Intervention-In-Lieu of Conviction Specialized Docket Participation Agreement

Purpose of Document

The purpose of this document is to serve as a model identifying the issues that shall be addressed in an Adult Post-Conviction or Intervention-In-Lieu of Conviction (ILC) Specialized Docket Participation Agreement. Under Sup.R., Appx. I, Std. 1(D) and 2(D), specialized docket programs are required to create and use a written participation agreement detailing the rights and responsibilities of the participant in the specialized docket and the requirements and process of the specialized docket.

The Participation Agreement shall serve as a public record of the participant's willingness to enter into the specialized docket program and shall be in the official court file held by the clerk of courts prior to the participant starting the specialized docket program. Prior to the participant signing this document, either the attorney of record or the court shall review with the participant the contents of this document and the official court record shall reflect that the participant knowingly and voluntarily executed this document.

Adult Post-Conviction or ILC Specialized Docket

This refers to programs where the participant is sentenced into the specialized docket program as a term of probation, placed in the program as a sanction for a probation violation, or enters under the intervention-in-lieu statute. R.C. 2951.041. If the participant is sentenced into or placed in the specialized docket as a sanction on a probation violation and successfully completes the program, then usually his/her probation may be terminated early and/or non-mandatory fines and fees may be forgiven. If the sentenced participant is unsuccessfully terminated from the specialized docket, then his/her probation may be revoked, and he/she may be sent to jail or prison. If the participant enters the specialized docket as a term of an ILC intervention plan and successfully completes, then the court shall dismiss the proceedings against the participant and may seal the records. If the ILC participant fails to complete his/her intervention plan and is unsuccessfully terminated from the specialized docket, then a finding of guilt is entered and the participant is sanctioned appropriately under R.C. Chapter 2929.

IN THE _____ COURT
_____, OHIO

STATE OF OHIO, : Case No. _____
 :
Plaintiff, :
 :
 :
vs. :
 :
 :
 :
 : Participation Agreement
 : Adult Post-Conviction or ILC
Defendant. : Specialized Docket
 :
 :

Introductory Paragraph

This paragraph shall identify the type of specialized docket and identify the points of entry for the participant.

This paragraph shall state the participant’s willingness to participate in the program and his/her understanding and agreement to comply with the specialized docket program terms and expectations which follow. This paragraph also shall note that the participant received the participant handbook and that it has been reviewed with the participant.

Elements of Agreement

- 1) **Rights to be Waived** — The participation agreement shall specifically identify any and all rights the participant may be waiving in order to participate in the specialized docket. This also shall include a statement regarding the participant’s ability to rescind these rights’ waivers at any time and the consequences for rescinding the waivers, which may include unsuccessful termination from the program. The rights waiver may address the following:
 - A) Right to Due Process — in regard to the imposition of sanctions, including maximum timeframes on number of jail days that can be imposed as a sanction without a hearing, if applicable
 - B) Right to an Attorney — in regard to the right to have an attorney to consult and be present at status review hearings, including status review hearings where a sanction is imposed
 - C) Right to Remain Silent and Right Against Self Incrimination — in regard to being honest and self-reporting any violations of the specialized docket program rules

- D) Right to Freely Associate — in regard to the specialized docket’s ability to restrict the participant’s ability to see or go within a certain distance of specific people
- E) Right Against Unlawful Search and Seizure — in regard to specialized docket staff being able to conduct searches of participant’s person, residence, and property.

- 2) **Program Expectations** — This shall state that the participant will follow and comply with the treatment plan, supervision plan, and specialized docket program rules and requirements. This shall include the minimum length of the specialized docket program, number and minimum length of phases, mandatory jail time if applicable, and monetary requirements, such as fees, fines, costs, and restitution.
- 3) **Assessment, Treatment and Referral** — This shall state that the participant is willing to attend and fully participate in all treatment and programming assessments to which they are referred.

This also shall state that the participant shall complete a release of information form to provide for communication about 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, as amended, and R.C. 2151.421 and 2152.99. **Sup.R., Appx. I, Std. 4(B).**

This shall state that participant will keep confidential all information regarding other program participants shared at status review hearings or group sessions.

This also shall state that the participant shall be placed as soon as possible in appropriate treatment services and programs and shall attend as required. **Sup.R., Appx. I, Std. 4(C).**

- 4) **Participant Monitoring** — This shall include supervision requirements, substance abuse testing protocol, monetary requirements, such as fees, fines, costs, and restitution, attendance requirements for status review hearings and a description of program phases, including requirements to move to the next phase and number and minimum length of program phases.

This shall state that the participant shall be placed under reporting supervision to monitor compliance with court requirements. **Sup.R., Appx. I, Std. 4(C).**

This shall include information regarding ongoing communication among the treatment team, including frequent exchanges of timely and accurate information about the participant’s overall performance. **Sup.R., Appx. I, Std. 6(C).**

This shall include information regarding 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 based solely upon preset timelines.

Sup.R., Appx. I, Std. 6(D).

This shall include explanation of responses to compliance and noncompliance, including criteria for termination. **Sup.R., Appx. I, Std. 6(E).**

This shall state that the specialized docket incorporates ongoing judicial interaction with each participant as an essential component of the docket. **Sup.R., Appx. I, Std. 7(A).**

This shall state that, at a minimum, the specialized docket participant appears before the specialized docket judge at least twice monthly during the initial phase of the specialized docket. **Sup.R., Appx. I, Std. 7(B)(1).**

This shall state that the specialized docket shall monitor a specialized docket participant's substance use by individualized, random, frequent, and observed alcohol and other drug testing plans. **Sup.R., Appx. I, Std. 8.**

This shall include 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 judge.

Sup.R., Appx. I, Std. 8(C).

This shall state that immediate notification to the court will occur when the participant tests positive, fails to submit to testing, submits an adulterated sample or the sample test of another individual, or dilutes the sample. It also shall contain information that failing to submit to testing, submitting an adulterated sample or the sample test of another individual, or diluting the sample are treated as positive tests and immediately sanctioned.

Sup.R., Appx. I, Std. 8(D).

This shall state that a participant's noncompliance will be governed by immediate and graduated sanctions and shall include the maximum jail timeframes that will be imposed before a hearing is required. **Sup.R., Appx. I, Std. 10.**

- 5) **Successful Completion Criteria** — This shall specifically delineate the criteria for successful completion, including: minimum timeframes to graduate from the specialized docket; payment of any costs, fines, restitution, or fees; minimum mandatory jail timeframes; and number of community service hours.
- 6) **Termination Criteria** — This shall include criteria for termination from the specialized docket program and the consequences to the participant. **Sup.R., Appx. I, Std. 6(E).**

THE PARTICIPANT ACKNOWLEDGES THAT HE/SHE HAS READ AND UNDERSTANDS THIS AGREEMENT, FREELY AND VOLUNTARY RELINQUISHES THE RIGHTS DISCUSSED HEREIN AND AGREES TO ABIDE BY ALL THE RULES AND CONDITIONS OF THE SPECIALIZED DOCKET.

Signature of Participant

Date

Attorney for Participant

Date

Prosecutor

Date

Judge

Date