

Forensic Commitment of People with IDD to SSLCs webinar

August 20, 2025

Questions and Answers

1) Could you please speak to the status of the court's accommodating individuals with intellectual disabilities in legal proceedings, including competency hearings?

Courts have affirmative obligations under ADA Title II and §504 to provide reasonable modifications and auxiliary aids so litigants with intellectual disabilities can meaningfully participate—this includes competency proceedings. Common, workable accommodations include: allowing a support person; plain-language explanations; extra time and breaks; remote appearance options; assistive communication supports; modified scheduling; and ensuring counsel–client consultation time. The key is an individualized, interactive process triggered by a request to the court/ADA coordinator. I’ve attached NDRN’s materials on allowing a support person as a concrete example and template for requests.

2) Could you please clarify the specific professional and credentialing requirements for the composition of an IDT for a forensic commitment?

Texas regs define the IDT broadly—there’s no rigid, exhaustive list of disciplines. The operative standard is participation by people “professionally qualified or certified or licensed with special training and experience in the diagnosis, management, needs, and treatment of individuals with an intellectual disability.” 26 TAC § 904.5(24)

“Professional” includes those licensed/certified in Texas health or human-services occupations or who meet DADS/HHSC criteria for roles such as service coordinator, QIDP, or TDMHMR-certified psychologist. 26 TAC § 261.203(65).

Practically, IDTs often include (as relevant to the person): psychologist or psychiatrist, QIDP, RN, behavior specialist/BCBA, social worker/service coordinator, educator, and therapy disciplines—so long as they meet the “professionally qualified” standard.

3) Could you speak a bit to the Admn Hearing and Appeal process?

A. Challenging a Determination of Intellectual Disability (DID):

- A person may request an administrative hearing before an HHSC-appointed hearing officer. Tex. Health & Safety Code §§ 593.007–.008; see 40 TAC § 4.154 (procedures).

B. Appealing a court commitment order:

- Health & Safety Code § 593.056 gives any party the right to appeal the judgment to the court of appeals.

- Not accelerated by rule, but courts can prefer-set. Civil rules apply, and the court can stay the commitment during appeal.

Important nuance: If the proceeding is a review under Code of Criminal Procedure art. 46B.107 about continued placement at an SSLC, that review is not a new “judgment of commitment to a residential care facility,” so § 593.056 doesn’t create a fresh right to appeal; the 30-day clock ties back to the original commitment order (which may be years old). See *Powell v. State*, 487 S.W.3d 768, 771 (Tex. App.—Dallas 2016, no pet.). However:

- If a court truly issues a new commitment (e.g., after discharge), there’s a strong argument that it is a new, appealable “judgment of commitment.”
- If no direct appeal lies, parties should consider mandamus or writ of habeas corpus; ongoing confinement of someone who doesn’t meet commitment criteria raises serious constitutional problems. See *O’Connor v. Donaldson*, 422 U.S. 563, 574–75 (1975); *Harris v. Clay Cnty.*, 47 F.4th 271, 278–79 (5th Cir. 2022), cert. dismissed, 143 S. Ct. 1074 (2023).