

**RULES OF PRACTICE
OF THE
COURT OF COMMON PLEAS**

STATEMENT OF PURPOSE

Delay in criminal and civil cases in the Courts of Common Pleas throughout the state of Ohio is a serious problem in the administration of justice. Constitutional courts were created to serve the litigants and the interest of the public at large, not for the convenience or benefit of judges and lawyers. Unnecessary delay erodes the public's confidence in the judicial system.

It is the obligation of the judges of the Court of Common Pleas, Franklin County, Ohio, to operate the Court in a manner that is lawful, fair, just, and efficient for the benefit of the citizens of Franklin County and all other litigants that come before it. To that end, the following rules are designed (1) to expedite the disposition of both criminal and civil cases in this Court, while at the same time safeguarding the rights of litigants to the just processing of their cases; (2) to expedite and make consistent the disposition of cases in the general branch of the Court; and (3) to serve the public interest which mandates the prompt disposition of all cases before this Court.

RULE 76 – Specialized Docket – The TIES Program

76.01 (08-25-05) Creation of Specialized Docket, “The TIES Program.” There is hereby created in the Court in its criminal division, a specialized docket for the handling of convictions of fourth and fifth degree non-violent felonies and first degree misdemeanors that are recognized to have occurred because of alcohol or other drugs and/or co-occurring mental and substance abuse disorders. This specialized docket shall be named, “Treatment is Essential to Success“ and known as the “TIES Program.” Persons sentenced to community control who qualify for the TIES Program will be supervised by a judge, known as the TIES Program Judge, reporting to that judge on a frequent basis, along with other TIES Program participants.

76.02 Goal of the TIES Program. The TIES Program has as among its goals the following:

- A. Consolidation and removal of a class of cases that places significant demands on court resources,
- B. Law enforcement’s action in arresting for crimes involving or relating to drug and alcohol abuse being taken seriously, because a drug court program causes offenders to be monitored more closely and squarely places responsibility on the offender to make positive choices or face immediate consequences for not doing so,
- C. Early identification of potential drug court participants resulting in reduced jail population and cost savings to the county, and
- D. Facilitating greater coordination and more effective use of public services for criminal justice cases in the treatment system.

76.03 History of the TIES Program. The court started the TIES program April 7, 2004, to try to address the impact of drug and alcohol problems on the level of crime in Franklin County. The Court understands that drugs and alcohol are a significant, contributing factor in many crimes. The Court initially implemented the TIES Program as a pilot program by court entry signed by all of the judges of the court and filed with the Clerk May 7, 2003. The goal of the TIES Program has been to address the causes of some of the crimes committed in Franklin County by connecting persons who have committed crimes in which drug or alcohol problems have been involved with needed treatment and related services.

The Court's goal has been to assist criminal defendants in making permanent changes resulting in reduced criminal recidivism to provide for a safer community.

76.04 Participation in TIES Program is Voluntary. Participation in the TIES Program is voluntary. It is not the intent of the Court to mandate that a defendant complete the TIES program as a condition of community control. Before being sentenced to the TIES Program, each potential TIES participant shall attend a TIES Program hearing to ensure that he or she still wishes to participate in the program.

76.05 Eligibility Criteria for TIES Program Admission.

- A. Potential TIES Program participants may enter the program on new charges, a probation violation or as a condition of judicial release. In any of these situations, the original charge may not be an offense of violence as defined in R.C. 2901.01, with the exception of domestic violence, which must be determined on a case-by-case basis, nor may it be a sexually oriented offense. The original charge(s) must be of no higher level than a felony of the third degree, and the conviction must be to a fourth or fifth degree felony or a first degree misdemeanor.
- B. A potential participant who desires to be considered for the TIES Program is to be evaluated for both legal and social factors to determine if they may be admitted. Such factors include, but are not limited to:
 - 1) **LEGAL factors in screening TIES Program participants**
 - a) Current charge
 - b) Criminal history, including adjustment to prior supervision
 - c) Circumstances of offense
 - d) Outstanding warrants, detainers, previous diversions, or other charges
 - 2) **CLINICAL factors in screening TIES Program participants**
 - a) Assessment of substance abuse history
 - b) Social/family history
 - c) Other health conditions
 - d) Motivation and willingness to participate (including signing of release of information)
- C. The TIES Program shall develop an outline of Eligibility Factors of Admission to the TIES Program that shall be available for reference to assist in determining a potential participant's eligibility for the program.

76.06 Referring Criminal Defendants to the TIES Program

- A. **Identifying eligible cases for transfer:** If a referring Judge has a criminal defendant that he/she believes is involved with the criminal justice system as a result of drug and/or alcohol abuse he or she may request that such defendant be evaluated for eligibility for the TIES Program. The defendant should meet the basic eligibility requirements as set forth in Loc. R. 76.05(A) to be considered.
- B. **Discussion with counsel about referral for evaluation:** If a Judge desires to refer the defendant to be evaluated for eligibility for the TIES Program, discussion with counsel should take place, and counsel may also approach the Judge with the suggestion.

- C. Referral for evaluation:** In referring a defendant to be evaluated for eligibility for the TIES Program, a signed entry entitled “ENTRY REFERRING DEFENDANT TO TIES PROGRAM FOR EVALUATION FOR PROGRAM ELIGIBILITY AND ADMISSION”, must be completed and counsel notified.
- D. Defendant consents to evaluation:** If the defendant wishes to be evaluated for eligibility, the defense attorney and defendant must complete the entry entitled “CONSENT AND WAIVER BY DEFENDANT FOR REFERRAL TO TIES PROGRAM TO BE EVALUATED FOR PROGRAM ELIGIBILITY AND ADMISSION”. This signed entry, along with the entry from the Judge in C. above must then be forwarded to the TIES Coordinator.
- E. Defendant is evaluated by TIES Coordinator:** Upon receipt of above the entries noted in C. and D. above, the TIES Coordinator or his or her qualified designee shall personally meet with the defendant, whether incarcerated or on bond, to administer screening tools and evaluate motivation for admission to the TIES Program.
- F. TIES Program Staffing for Eligibility:** The TIES Program team, consisting of but not limited to the TIES Program Judge, the TIES Program Coordinator, the TIES Program probation officer, a treatment assessor and liaisons from treatment providers who have signed Memoranda of Understanding and confidentiality statements to participate as treatment providers for TIES Program participants, shall jointly determine a potential TIES participant’s eligibility for the program.
- G. TIES Coordinator notifies of program eligibility:** Based on the recommendation of the TIES Program team, the TIES Coordinator shall complete the entry entitled “NOTICE OF RESULTS OF TIES PROGRAM EVALUATION FOR PROGRAM ELIGIBILITY AND ADMISSION” and forward copies of this entry to the referring judge and counsel notifying them of the defendant’s eligibility for admission to the TIES Program.
- H. Transfer of defendant’s case(s) to the TIES Program:** The TIES Coordinator shall prepare the entry entitled “ENTRY TRANSFERRING DEFENDANT’S CASE TO THE TIES PROGRAM,” submitting it to both the referring Judge and the TIES Program Judge, for approval by the Administrative Judge, and the defendant will be formally transferred to the TIES Program Judge’s docket.
- I. Taking the plea:** When the case involves new charges, the referring Judge may take the plea or may refer the case to the TIES Program Judge to take the plea, which shall be fourth or fifth degree nonviolent, non-sexually oriented felony(ies) or first degree misdemeanor(s). Because of the time needed to interview the defendant, the referring Judge may need to continue the case on his or her docket until notified that the defendant is eligible for the program. In the event that the referring Judge wishes for the TIES Program Judge to take the plea, it is suggested that the continuance be to the TIES Program Judge’s regular disposition day so that he or she is available to take the plea.
- J. Sentencing:** For cases involving new charges, each participant shall be subject to a pre-sentence investigation to aid the TIES Program and its treatment providers in preparing a successful case management plan for the TIES participant. The TIES Program Judge shall sentence the defendant to the TIES Program as a condition of community control,

originally setting the probationary period at three years, with the incentive of early termination of community control if the defendant successfully completes the TIES Program. The TIES Program participant shall begin attending TIES Program hearings as a condition of bond, and generally, TIES Program participants will be placed on a period of house arrest for sixty days as a condition of bond. Early release from the term of house arrest may be used as an incentive for continued TIES Program compliance.

In the case of an existing probation case or a judicial release case, the TIES Program Judge shall resentence the TIES participant referred by the referring Judge at a revocation hearing to the TIES Program as a condition of community control, originally setting the probationary period at three years, with the incentive of early termination of community control if the defendant successfully completes the TIES Program.

K. Substitution of similar case for transferred case: Upon the transfer of a referring Judge's case to the TIES Program Judge, the referring Judge will receive a case of the same level felony from the TIES Program Judge's docket for each UNSENTENCED case transferred. There is no corresponding transfer to a referring Judge for a probation or judicial release case transferred. The transfer may not occur immediately, as the TIES Program Judge's case transferred must be a new case, and there may be a need to wait until a similar case is indicted and can be transferred.

L. If there is a waiting list for TIES Program: At some point there may be a waiting list for the TIES Program. If a referring Judge has a defendant to refer to the program, and the program is at capacity, the referring Judge is encouraged to refer the defendant regardless to allow his/her name to be placed on a waiting list and to allow for effective program evaluation by comparing the TIES Program participants' performance on community control with those who would be eligible but are completing conventional community control. This group of waiting list defendants becomes a "control group" for study purposes to help justify additional funding from outside sources to increase the capacity of the program.

76.07 Comprehensive Evaluation of TIES Program Participants for Case Management. TIES Program participants are to be evaluated for a number of conditions that regular probationers are not. All TIES Program participants are to be evaluated for drug, alcohol and any mental health conditions, along with an evaluation to see if there is any neurological condition that affects learning or behavior. The results of these and other evaluations are to be taken into account when determining what conditions of supervision will be required and how the participant will be supervised.

76.08 TIES Program Handbook. The TIES Program Coordinator shall maintain a TIES Program Handbook, making it available to all court personnel, counsel and criminal defendants who may be eligible for the TIES Program. The Handbook shall set forth rules for the program, the policies and procedures for urine drug screens and other methods for detecting the presence of drugs and/or alcohol in a participant's physical body/system, requirements for TIES program phases, graduated sanctions and program incentives. The TIES Program Handbook shall be reviewed at least annually for necessary changes based on the needs of the court, the program, its participants and its treatment and other providers. The TIES Program shall provide a copy of its TIES Program Handbook to the Specialized Dockets Section of the Ohio Supreme Court upon review and revision of the handbook.

76.09 TIES Program Phases. Participants in the TIES Program shall complete three phases, each consisting of a minimum of twelve weeks. Movement to the next phase shall depend upon the frequency of sanctions in the existing phase, as set forth in the TIES Program Handbook. A TIES Program participant must maintain a period of sobriety of at least six months after completing the third phase to be eligible to graduate and have his or her community control terminated.

76.10 Successful Completion of TIES Program. It shall be the goal of the TIES Program that its participants shall complete the following minimum requirements:

- A. Restitution paid
- B. Letters of apology completed (when ordered)
- C. GED obtained, when capable
- D. All court costs and fines in all cases paid
- E. Valid driver's license, depending on ability to obtain one
- F. Employment
- G. Community service completed (if applicable)
- H. Court supervision fee paid
- I. Six months sobriety following completion of the third phase of the program
- J. Completion of post-program forms and interview

76.11 Unsuccessful Termination from the TIES Program. The TIES Program Handbook shall set forth in its statement of graduated sanctions reasons for termination from the TIES Program. Examples of reasons for termination from the TIES Program include but are not limited to: absconding, failure to participate, failure to appear in court, and new charges and/or convictions that did not arise from an incident preceding TIES Program participation. The decision to terminate a participant from the TIES Program shall be made by the TIES Program team. If a TIES Program participant is terminated from the program, the TIES Program probation officer shall schedule the participant for a revocation hearing before the TIES Program Judge, at which time, the TIES participant shall be subject to revocation as any probationer would be who is subject to revocation from community control. The TIES Program Judge shall determine the sentence for the TIES participant at a regular revocation hearing on the judge's docket. Program termination makes a former TIES participant ineligible for future TIES Program participation.

76.12 Funding of the TIES Program. The TIES Program in its pilot program stage has been established with grant funding from the Ohio Department of Alcohol and Drug Addiction Services. The TIES Program shall be authorized to apply for additional grant funding to provide for the continued operation of the program. The TIES Program Judge shall consult with the Administrative Judge and the Court's Executive Director regarding funding sources to maintain this program of the court.

76.13 Reports to the Court *En Banc*. The TIES Program Judge shall provide to the court *en banc* on a quarterly basis a TIES Program Census, including the names of current participants, listed by judge, including their case numbers, offenses, phases in the program, whether or not the prosecutor approved or disapproved of the referral, TIES Program sanctions imposed, the current treatment provider and information on termination or final outcome.

76.14 Program Evaluation. The TIES Program shall seek the assistance of the State of Ohio Office of Criminal Justice Services and/or any other qualified program evaluator to design and implement both process and outcome evaluations of the TIES program, with factors to be evaluated that include but are not limited to:

- A. **Recidivism**

- B. Time in custody
- C. Retention in program/treatment
- D. Costs
- E. Other

Program success may be defined in terms of a significant decrease in recidivism within a specific period of entering and/or completing the TIES Program and the percentage of participants who complete the TIES Program. Cost savings may also be a factor in conjunction with these success indicators.

76.15 Memoranda of Understanding with Treatment and Other Providers to the TIES Program. The TIES Program shall develop a Memorandum of Understanding to be signed by TIES Program treatment providers. Such Memorandum of Understanding must include at least the following and shall be renewed annually by TIES Program treatment providers:

- A. Treatment provider must guarantee no wait for TIES Program participants to enter treatment; in the case of outpatient treatment, must provide treatment within several days of referral, as set forth in Memorandum of Understanding; in the case of inpatient treatment, must provide bed within approximately two weeks of referral, as set forth in Memorandum of Understanding.
- B. Treatment and other providers shall be selected, taking into account Medicaid regulations, geographic location, service to diverse racial and cultural clientele, and options for drug treatment of special populations such as dual diagnosis, pregnant women, mentally disabled, or HIV positive.
- C. Treatment and other providers shall coordinate with and account for TIES Program sanctions, including but not limited to CBCF, house arrest and work release.
- D. When a TIES participant can afford to pay for some of cost of treatment, participant may pay according to a scale developed by treatment provider and approved by the court.
- E. When a TIES participant has private health insurance that provides and pays for the referred substance abuse and/or mental health benefits, the participant shall be responsible for paying for treatment.