

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Pennsylvania Rules of Disciplinary Enforcement 208, 215 and 402; No. 71; Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 12th day of December, 2008, Rules 208, 215 and 402 of the Pennsylvania Rules of Disciplinary Enforcement are amended to read as set forth in Annex A.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 208. Procedure.

(a) *Informal proceedings.*

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(2) Upon the conclusion of an investigation, Disciplinary Counsel may dismiss the complaint as frivolous, [or] as falling outside the jurisdiction of the Board, or on the basis of Board policy or prosecutorial discretion. Disciplinary Counsel may recommend:

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(3) Except where [the complaint is dismissed because] Disciplinary Counsel dismisses the complaint [is] as frivolous, [or falls] as falling outside the jurisdiction of the Board, or on the basis of Board policy or prosecutorial discretion, the recommended disposition shall be reviewed by a member of a hearing committee in the appropriate disciplinary district who may approve or modify.

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Rule 215. [Resignations by attorneys under disciplinary investigation] Discipline on Consent.

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(c) *Confidentiality of resignation statement.* The order disbaring the attorney on consent shall be a matter of public record. If the statement required under the provisions of subdivision (a) of this rule is submitted before the filing and service of a petition for discipline and the filing

of an answer or the time to file an answer has expired, the statement shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement proceeding except:

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(3) upon a request of another jurisdiction for purposes of a reciprocal disciplinary proceeding, [or]

(4) upon a request by the Pennsylvania Lawyers Fund for Client Security Board pursuant to Enforcement Rule 521(a) (relating to cooperation with Disciplinary Board) [.], or

(5) when the resignation is based on an order of temporary suspension from the practice of law entered by the Court either pursuant to Enforcement Rule 208(f)(1) (relating to emergency temporary suspension orders and related relief) or pursuant to Enforcement Rule 214 (relating to attorneys convicted of crimes).

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Subchapter D. MISCELLANEOUS PROVISIONS

Rule 402. Access to Disciplinary Information and Confidentiality.

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(c) Until the proceedings are open under subdivision (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential unless:

* * * * *

(3) the proceeding is based on an order of temporary suspension from the practice of law entered by the Court pursuant to Enforcement Rule 208(f)(1) (relating to emergency temporary suspension orders and related relief);

[(3)] (4) in matters involving alleged disability, the Supreme Court enters its order transferring the respondent-attorney to inactive status pursuant to Enforcement Rule 301 (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated); or

[(4)] (5) there is a need to notify another person or organization, including the Lawyers' Fund for Client Security, in order to protect the public, the administration of justice, or the legal profession.

* * * * *

(g) Except as provided in subsection (h), if nonpublic information is requested pursuant to subdivision (d)(1)(i), (iii), (iv) or (v) and the respondent-attorney has not signed an applicable waiver of confidentiality, the respondent-attorney shall be notified in writing at the last known address of the respondent-attorney of what information has been requested and by whom, together with a copy of the information proposed to be released to the requesting agency or board. The notice shall advise the respondent-attorney that the information will be released 20 days after mailing of the notice unless the lawyer objects to the disclosure. If the lawyer timely objects to the disclosure, the information shall remain confidential unless the requesting agency or board obtains an order of the Supreme Court requiring its release or the respondent-attorney withdraws the objection.

(h) If an agency or board requesting the release of information under subdivision (d)(1) **other than the Judicial Conduct Board and the Pennsylvania Lawyers Fund for Client Security Board** has not obtained an applicable waiver of confidentiality from the respondent-attorney, and the agency or board requests that the information be released without giving notice to the respondent-attorney, the requesting agency or board shall certify that:

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[Pa.B. Doc. No. 08-2338. Filed for public inspection December 26, 2008, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1 AND 11]

Order Amending Rules 121 and 1121 of the Rules of Juvenile Court Procedure; No. 455; Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 12th day of December, 2008, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published before adoption at 38 Pa.B. 1349 (March 22, 2008), in the Atlantic Reporter (Second Series Advance Sheets, Vol. 940, March 14, 2008), and on the Supreme Court's web-page, and an *Explanatory Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to Rules 121 and 1121 of the Rules of Juvenile Court Procedure are adopted as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

CHAPTER 1. GENERAL PROVISIONS

Rule 121. Local Rules.

A. **Definition of Local Rule.** For the purpose of this rule, the term, "local rule" shall include every rule, **administrative order**, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, **which is** adopted or enforced by a court of common pleas to govern juvenile delinquency practice and procedure[, **which requires a party or party's attorney to do or refrain from doing something**].

B. **Vacated Local Rules and Repromulgation.** [All previously promulgated local rules are hereby vacated, effective October 1, 2005.]

1) All local rules promulgated before October 1, 2005 were vacated at the time of the adoption of these Rules.

2) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure after submission under paragraph (D).

C. **Corresponding numbers.** Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

[Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.

1) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure.

2) Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

D. A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:

1) A local rule shall be in writing.

2) Seven certified copies of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.

3) Two certified copies of the local rule shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Juvenile Court Procedural Rules Committee.

5) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

E. A local rule shall become effective not less than thirty days after the date of publication of the rule in the *Pennsylvania Bulletin*.

F. No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the attorney to comply with the local rule.

G. The Juvenile Court Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation.]

D. Submission to Committee.

1) All proposed local delinquency rules and proposed amendments to local delinquency rules shall be submitted in writing to the Juvenile Court Procedural Rules Committee for the Committee to review.

2) The adopting court shall not proceed with the proposed local rule or amendments until the adopting court receives written notification from the Committee that the proposed local rule or amendments are not inconsistent with any general rule of the Supreme Court.

E. Vacating and Suspending Local Rules. Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.

1) The Juvenile Court Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

2) The Juvenile Court Procedural Rules Committee may suspend that local rule pending action by the Court on that recommendation.

F. Publication of Local Rules. All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

1) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the statement from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.

2) The adopting court shall submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:

a) two certified copies of the local rule;

b) a copy of the local rule on a computer diskette, CD-ROM, or electronic copy that complies with the requirements of 1 Pa. Code § 13.11(b)—(f); and

c) a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that the local rule is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure.

3) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.

G. Filing with AOPC. Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall file one certified copy of the local rule with the Administrative Office of Pennsylvania Courts.

H. Public Inspection.

1) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts.

2) Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

I. Mandatory Acceptance of Filing.

1) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule.

2) No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule.

3) In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

Comment

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The caption or other words used as a label or designation [shall] is not to determine whether something is or establishes a local rule; if the definition in paragraph (A)

of this rule is satisfied, the matter is a local rule regardless of what it may be called. The provisions of this rule also are intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

Paragraph (B) [vacates] vacated all current local rules on October 1, 2005, the original effective date of this rule. The local rules are to be repromulgated to comply with this rule. This includes rekeying pursuant to paragraph (C) [(2)] and meeting the appropriate filing requirements under [paragraph] paragraphs [(D)] (F) and (G).

To simplify the use of local rules, local juvenile delinquency procedural rules are required to be given numbers that are keyed to the number of the general juvenile delinquency procedural rules to which the local rules correspond pursuant to paragraph (C). This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general juvenile delinquency procedural rule.

Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in paragraphs (F) and (G), the adopting court must submit all proposed local delinquency rules or rule amendments to the Juvenile Court Procedural Rules Committee for review.

[The purpose of paragraph (D) is to] The 2008 amendments emphasize that the adopting authority [shall] is to comply with all the provisions of [paragraph (D)] this rule before any local rule, or any amendment to local rules, will be effective and enforceable.

Paragraph (F) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect or in lieu of a diskette or CD-ROM, an electronic copy may be submitted to Legislative Reference Bureau at pabsupreme@palrb.us. The diskette, CD-ROM, or email cover sheet must be labeled with the court's name and address and the local rule's computer file name. In addition, a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, that the local rule is not inconsistent with the Rules of Juvenile Court Procedure is to be submitted.

[Paragraph (D)(5) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at: <http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>.]

Pursuant to paragraph (F)(2), an electronic copy is a document sent via email to the *Pennsylvania Bulletin*.

Although under paragraph [(E)](F)(3) a local rule [shall] is not to be effective until at least thirty days after the date of publication in the *Pennsylvania Bulletin*,

when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at: <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.

Paragraph (H) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The purpose of paragraph ([F] I) is to: 1) require that all documents presented for filing are accepted by the clerk of court, also see Rule 345 (A)(2); and 2) prevent the dismissal of cases, or the granting or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph ([F] I) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph ([F] I), the court may impose a sanction for subsequent noncompliance either on the attorney or the juvenile if proceeding *pro se*, but may not dismiss the case, or grant or deny relief because of non-compliance.

Official Note: Rule 121 adopted April 1, 2005, effective October 1, 2005. Amended December 12, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 121 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 1121 published with the Court's Order at 38 Pa.B. 7084 (December 27, 2008).

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1121. Local Rules.

A. **Definition of Local Rule.** For the purpose of this rule, the term, "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas to govern juvenile dependency practice and procedure[, which requires a party or party's attorney to do or refrain from doing something].

B. **Vacated Local Rules and Repromulgation.** [All local rules promulgated before the effective date of this rule are hereby vacated on the date this rule becomes effective.]

1) All local rules promulgated before February 1, 2007 were vacated at the time of the adoption of these Rules.

2) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure after submission under paragraph (D).

[C. Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.

1) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure.

2) Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

D. A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:

1) A local rule shall be in writing.

2) Seven certified copies of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.

3) Two certified copies of the local rule shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Juvenile Court Procedural Rules Committee.

5) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

E. A local rule shall become effective not less than thirty days after the date of publication of the rule in the *Pennsylvania Bulletin*.

F. No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the attorney to comply with the local rule.

G. The Juvenile Court Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation.]

C. **Corresponding numbers.** Local rules shall not be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

D. **Submission to Committee.**

1) All proposed local dependency rules and proposed amendments to local dependency rules shall be submitted in writing to the Juvenile Court Procedural Rules Committee for the Committee to review.

2) The adopting court shall not proceed with the proposed local rule or amendments until the adopting court receives written notification from the Committee that the proposed local rule or amendments are not inconsistent with any general rule of the Supreme Court.

E. **Vacating and Suspending Local Rules.**

1) The Juvenile Court Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

2) The Juvenile Court Procedural Rules Committee may suspend that local rule pending action by the Court on that recommendation.

F. Publication of Local Rules. All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

1) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the statement from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.

2) The adopting court shall submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:

- a) two certified copies of the local rule;
- b) a copy of the local rule on a computer diskette, CD-ROM, or electronic copy that complies with the requirements of 1 Pa. Code § 13.11(b)—(f); and
- c) a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that the local rule is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure.

3) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.

G. Filing with AOPC. Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall file one certified copy of the local rule with the Administrative Office of Pennsylvania Courts.

H. Public Inspection.

1) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts.

2) Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

I. Mandatory Acceptance of Filing.

1) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule.

2) No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule.

3) In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

Comment

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Paragraph (B) [vacates] vacated all current local rules on February 1, 2007, the original effective date of this rule. The local rules are to be repromulgated to comply with this rule. This includes rekeying pursuant to paragraph (C)[(2)] and meeting the appropriate filing requirements under [paragraph] paragraphs ([D] F) and (G).

To simplify the use of local rules, local juvenile dependency procedural rules are required to be given numbers that are keyed to the number of the general juvenile

dependency procedural rules to which the local rules correspond pursuant to paragraph (C). This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general juvenile dependency procedural rule.

Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in paragraphs (F) and (G), the adopting court must submit all proposed local dependency rules or rule amendments to the Juvenile Court Procedural Rules Committee for review.

[The purpose of paragraph (D) is to] The 2008 amendments emphasize that the adopting authority is to comply with all the provisions of [paragraph (D)] this rule before any local rule, or any amendment to local rules, will be effective and enforceable.

Paragraph (F) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect or in lieu of a diskette or CD-ROM, an electronic copy may be submitted to Legislative Reference Bureau at pabsupreme@palrb.us. The diskette, CD-ROM, or email cover sheet must be labeled with the court's name and address and the local rule's computer file name. In addition, a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, that the local rule is not inconsistent with the Rules of Juvenile Court Procedure is to be submitted.

[Paragraph (D)(5) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at: <http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>.]

Pursuant to paragraph (F)(2), an electronic copy is a document sent via email to the *Pennsylvania Bulletin*.

Although under paragraph ([E] F)(3) a local rule is not to be effective until at least thirty days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at: <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.

Paragraph (H) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The purpose of paragraph ([F] I) is to: 1) require that all documents presented for filing are accepted by the clerk of court, also see Rule 345 (A)(2); and 2) prevent the dismissal of cases, or the granting or denial of requested relief, because a party has failed to comply

with a local rule. In addition, paragraph ([F] I) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph ([F] I), the court may impose a sanction for subsequent noncompliance either on the attorney or the party if unrepresented, but may not dismiss the case, or grant or deny relief because of non-compliance.

Official Note: Rule 1121 adopted August, 21, 2006, effective February 1, 2007. **Amended December 12, 2008, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1121 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1121 published with the Court's Order at 38 Pa.B. 7084 (December 27, 2008).

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 121 and 1121. The changes are effective immediately.

EXPLANATORY REPORT DECEMBER 2008

I. BACKGROUND

Rule of Juvenile Court Procedure 121 was adopted in 2005 and Rule of Juvenile Court Procedure 1121 was adopted in 2007 "to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of juvenile court procedure normally preempts the subject covered." The Juvenile Rules were modeled after Pa.R.Crim.P. 105 and Pa.R.C.P. 239, which were adopted in 1983. To provide consistency among the Court's rules, these amendments mirror the new language and intent of the Pa.R.Crim.P. 105 adopted January 25, 2008.

The amended rules provide a uniform definition of local rules, prerequisites to effectiveness and effective dates, procedures for accessibility and distribution, and for the suspension of inconsistent local rules.

When Pa.Rs.J.C.P. 121 and 1121 were adopted, all local rules were vacated. Each judicial district could promulgate new local rules that did not conflict with the Rules of Juvenile Court Procedure and each judicial district may continue to promulgate new consistent local rules.

Because judicial districts have continued to enact local rules that fail to comply with the provisions of Rule 121 or 1121, these amendments make the requirements for local rules absolutely clear. Judicial districts that continue to enact local rules by calling them something other than a local rule, even though the practices and procedures are local rules within the definitions of Rule 121 or 1121, will be prohibited from enacting those local rules until Rule 121 or 1121 have been followed. In addition, local rules will be published and made available to the members of the Bar.

Because of this non-compliance by some judicial districts and the need to provide uniform procedure, the Committee agreed that the only recourse to ensure compliance was to require that local rule amendments be submitted in writing to the Committee for review before a judicial district may enact or amend a local rule. The local rule will not be effective and enforceable unless the

local adopting court receives a written notification from the Committee that the local rule is consistent with the Rules of Juvenile Court Procedure. This requirement and some additional clarifying amendments are discussed below.

II. DISCUSSION

The amended rule, which requires that all new local rules and local rule amendments must be submitted to the Committee for the Committee's review before the local rule may be published and before the rule or amendments will be effective and enforceable, is set forth in amended paragraph (D). Pursuant to this new amendment, the adopting court is required to submit in writing any proposal that governs juvenile court practice and procedure to the Committee for the Committee's review. This pre-adoption review is narrow in scope. The Committee will merely determine whether the proposed local rule provisions comply with the requirements of Rule 121 or 1121. Specifically, the Committee will be considering whether the local rule change is consistent with the general rules of the Supreme Court as required in Rule 121(E) or 1121(E). The Committee will not be passing judgment on the wisdom of the local rule or the substantive validity of the provisions of the local rule or on the merits of the local rule.

Following this review, the Committee will communicate in writing with the adopting court. The adopting court will be prohibited from proceeding with the local rule proposal until receiving written notification from the Committee that the proposed local rule satisfies the requirements of Rule 121 or 1121 and is consistent with the statewide rules. In addition, paragraph (F)(2)(c) will require the adopting court to send a copy of the written statement received from the Committee to the Legislative Reference Bureau when publishing a new local rule.

Rules 121 and 1121 also have been reorganized to emphasize more clearly the essential requirements of the rule. Paragraph (A), which sets forth the "definition" of local rule, remains mostly the same. The term "administrative order" has been added to the list of things in this paragraph that are considered "local rules." In our experience, many local enactments labeled "administrative orders" are in fact "local rules" that should comply with Rule 121 or 1121 requirements. The Committee agreed that "administrative order" should be added to paragraph (A) because some judicial districts continue to ignore the clear mandate of Rule 121 or 1121. For example, they are designating various directives as "administrative orders" that actually govern practice and procedure in juvenile court cases or they are failing to publish or provide copies of these administrative orders to the Committee. As has been intended since the inception of Rule 121 or 1121, only administrative orders that govern juvenile court practice and procedure in some way would be subject to Rule 121 or 1121. This change is not intended to affect administrative orders that govern other aspects of court operations, such as administrative orders that establish local court calendars.

In addition, the phrase "which requires a party or party's attorney to do or refrain from doing something" has been removed from paragraph (A). These same non-compliant judicial districts fail to send in a local rule rationalizing that it is not a local rule because it does not meet the definition of "a party or party's attorney doing or refraining from doing something."

Paragraph (B) has been reworded to show that all local rules promulgated before October 1, 2005 were vacated at

the time of adoption of these Rules and moved to paragraph (B)(1). Old paragraph (C)(1) was moved to new paragraph (B)(2), which provides that each judicial district may adopt new local rules that are not in conflict with the Rules of Juvenile Court Procedure.

Old paragraph (C)(2) is now paragraph (C), which requires that local rules be given numbers keyed to the statewide rules to add emphasis to this requirement.

Old paragraph (G) will be retained as new paragraph (E)(1) and (2). The requirements are now separated to emphasize that the Committee may recommend the suspension, vacation, and amendment of local rules that do not comply with Rule 121 or 1121 to the Supreme Court. Pending that action, the Committee may suspend a local rule.

New paragraph (F) sets forth the provisions related to publishing proposed local rules in the *Pennsylvania Bulletin*, making it clear that to be effective and enforceable, the local rule must be published, but not until the Committee has provided written notification that the local rule is not inconsistent as required by new paragraph (D). In addition, old paragraph (D)(3) that explains what must be sent to the *Pennsylvania Bulletin* is now new paragraph (F)(2). Old paragraph (E) that requires the effective date of new local rules and amended local rules be not less than 30 days after publishing in the *Pennsylvania Bulletin* is now new paragraph (F)(3).

New paragraph (G) is taken from old paragraph (D)(2); however, new paragraph (G) requires that, contemporaneously with publishing in the *Pennsylvania Bulletin*, the adopting court must file one copy of the local rule with the AOPC. Old paragraph (D)(2) required that seven copies be sent to the AOPC.

Because new paragraph (D) requires that the adopting court submit a written copy of the proposed local rule to the Committee for prior approval, old paragraphs (D)(1) and (D)(4) will no longer be necessary.

Old paragraph (D)(5) has been moved to new paragraph (H).

New paragraph (I) incorporates old paragraph (F), and includes as a first sentence the requirement that the clerk of courts accept all pleadings and other legal papers for filing even if the document does not satisfy the requirements of a local rule.

This new recommendation is comparable to Pa.R.C.P. 205.2, Pa.Rs.Crim.P. 105 and 576(A), and complies with the requirements in Pa.R.J.C.P. 345(A).

[Pa.B. Doc. No. 08-2339. Filed for public inspection December 26, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY

Adoption of Rule of Criminal Procedure 202*— Approval of Search Warrant Applications by Attorney for the Commonwealth; No. 2253-08

Order

And Now, this 9th day of December, 2008, the Court approves and adopts the attached Montgomery County

Local Rule of Criminal Procedure 202*—Approval of Search Warrant Applications by Attorney for the Commonwealth. This Rule shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In further conformity with Pa.R.Crim.P. 105, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies and a computer diskette complying with 1 Pa. Code § 13.11(b) shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

RICHARD J. HODGSON,
President Judge

Rule 202*. Approval of Search Warrant Applications by Attorney for the Commonwealth.

The District Attorney of Montgomery County having filed a certification pursuant to Pennsylvania Rule of Criminal Procedure 202, search warrants in the following circumstances:

- 1) Criminal homicide in violation of 18 Pa.C.S.A. § 2501;
- 2) Murder in any degree in violation of 18 Pa.C.S.A. § 2502;
- 3) Voluntary manslaughter in violation of 18 Pa.C.S.A. § 2503;
- 4) Involuntary manslaughter in violation of 18 Pa.C.S.A. § 2504;
- 5) Causing or aiding suicide in violation of 18 Pa.C.S.A. § 2502;
- 6) Drug delivery resulting in death in violation of 18 Pa.C.S.A. § 2506;
- 7) Criminal homicide of unborn child in violation of 18 Pa.C.S.A. § 2603;
- 8) Murder of unborn child in violation of 18 Pa.C.S.A. § 2604;
- 9) Voluntary manslaughter of unborn child in violation of 18 Pa.C.S.A. § 2605;
- 10) Homicide by vehicle in violation of 18 Pa.C.S.A. § 3732; and
- 11) Homicide by vehicle while driving under the influence in violation of 18 Pa.C.S.A. § 3735.
- 12) Rape in violation of 18 Pa.C.S.A. § 3121;
- 13) Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S.A. § 3123;
- 14) Sexual Assault in violation of 18 Pa.C.S.A. § 3124.1;
- 15) Institutional Sexual Assault in violation of 18 Pa.C.S.A. § 3124.2;
- 16) Aggravated Indecent Assault in violation of 18 Pa.C.S.A. § 3125;
- 17) Indecent Assault in violation of 18 Pa.C.S.A. § 3126 when the victim is less than 16 years of age;
- 18) Incest in violation of 18 Pa.C.S.A. § 4302;

19) Sexual Abuse of Children in violation of 18 Pa.C.S.A. § 6312;

20) Unlawful Contact with a Minor in violation of 18 Pa.C.S.A. § 6318; and

21) Attempt, Conspiracy or Solicitation to Commit any of the Above Offenses.

shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 08-2340. Filed for public inspection December 26, 2008, 9:00 a.m.]

MONTGOMERY COUNTY

**Amendment to Rule of Criminal Procedure 507*—
Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth; No. 2254-08**

Order

And Now, this 9th day of December, 2008, the Court approves and adopts the attached amendment to Montgomery County Local Rule of Criminal Procedure 507*—Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth. This amended Rule shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In further conformity with Pa.R.Crim.P. 105, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies and a computer diskette complying with 1 Pa. Code § 13.11(b) shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

RICHARD J. HODGSON,
President Judge

Rule 507*. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.

The District Attorney of Montgomery County, having filed a certification pursuant to Pennsylvania Rule of Criminal Procedure 507 (B), criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging [**criminal homicide offenses (including homicide by vehicle)**]:

1) Criminal homicide in violation of 18 Pa.C.S.A. § 2501;

2) Murder in any degree in violation of 18 Pa.C.S.A. § 2502;

3) Voluntary manslaughter in violation of 18 Pa.C.S.A. § 2503;

4) Involuntary manslaughter in violation of 18 Pa.C.S.A. § 2504;

5) Causing or aiding suicide in violation of 18 Pa.C.S.A. § 2502;

6) Drug delivery resulting in death in violation of 18 Pa.C.S.A. § 2506;

7) Criminal homicide of unborn child in violation of 18 Pa.C.S.A. § 2603;

8) Murder of unborn child in violation of 18 Pa.C.S.A. § 2604;

9) Voluntary manslaughter of unborn child in violation of 18 Pa.C.S.A. § 2605;

10) Homicide by vehicle in violation of 18 Pa.C.S.A. § 3732; and

11) Homicide by vehicle while driving under the influence in violation of 18 Pa.C.S.A. § 3735.

12) Rape in violation of 18 Pa.C.S.A. § 3121;

13) Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S.A. § 3123;

14) Sexual Assault in violation of 18 Pa.C.S.A. § 3124.1;

15) Institutional Sexual Assault in violation of 18 Pa.C.S.A. § 3124.2;

16) Aggravated Indecent Assault in violation of 18 Pa.C.S.A. § 3125;

17) Indecent Assault in violation of 18 Pa.C.S.A. § 3126 when the victim is less than 16 years of age;

18) Incest in violation of 18 Pa.C.S.A. § 4302;

19) Sexual Abuse of Children in violation of 18 Pa.C.S.A. § 6312;

20) Unlawful Contact with a Minor in violation of 18 Pa.C.S.A. § 6318; and

21) Attempt, Conspiracy or Solicitation to Commit any of the Above Offenses.

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an attorney for the Commonwealth prior to filing.

[Pa.B. Doc. No. 08-2341. Filed for public inspection December 26, 2008, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Harry Elwood Franks, Jr., having been disbarred from the practice law in the State of New Jersey by Order of the Supreme Court of New Jersey dated February 5, 2008, the Supreme Court of Pennsylvania disbarred Harry Elwood Franks, Jr., from the practice of law in this Commonwealth by Order dated December 10, 2008, effective January 9, 2009. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Secretary of the Board
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 08-2342. Filed for public inspection December 26, 2008, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that I. Lewis Libby having been disbarred from the practice law in the District of Columbia by Opinion and Order of the District of Columbia Court of Appeals dated March 20, 2008, the Supreme Court of Pennsylvania disbarred I. Lewis Libby from the practice of law in this Commonwealth by Order dated December 10, 2008, effective January 9, 2009. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Secretary of the Board
 The Disciplinary Board of the
 Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 08-2343. Filed for public inspection December 26, 2008. 9:00 a.m.]

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 12, 2008, under Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective December 12, 2008, for Compliance Group 1 due April 30, 2008.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Avedissian, David A.
 Haddonfield, NJ

Barnes, Eliana Mariella
 Greensboro, NC

Battista, Bryan Joseph
 Barrington, NJ

Becker, Michael D.
 Royal Oak, MI

Berg, Freddie Jay
 New York, NY

Bigler, Benjamin Alan
 San Francisco, CA

Blevins, Mark A.
 Wheeling, WV

Brooks, Barnett Q.
 Tampa, FL

Brown, David Earl
 Alexandria, VA

Brown, Robert Amin
 Atlanta, GA

Browne, Gloria J.
 New York, NY

Bullion, Andrew Baker
 Washington, DC

Butler, Earl Don
 Vestal, NY

Cinti, John M.
 Mount Laurel, NJ

Colombo, Diana
 Bridgeport, WV

Coniglio, Kristy Kathleen
 White Plains, NY

Davis, Lisa A.
 Waxhaw, NC

Delisi, Andrea
 Washington, DC

Dhanjal, Manpreet Singh
 Wheaton, MD

Dibble, Jaime Sue
 Washington, DC

Erickson, Jeffrey A.
 Arlington, VA

Fornaro, Richard David
 Hamilton, NJ

Foy, Mary Theresa
 Newark, NJ

Gallagher, Molly A.
 San Francisco, CA

Gatto, Caterina
 Wilmington, DE

Gordon, Timothy Shawn
 Hagerstown, MD

Gross, Daniel Stephan
 Ann Arbor, MI

Gruszecki, Cara E.
 Shelbyville, TN

Hal, Katrina Michelle
 Winterville, NC

Hall, Thomas
 Belmar, NJ

Hanna, Christina Marie
 Washington, DC

Herdelin, Thomas McGlade
 Audubon, NJ

Higbee, Debra Rebecca
 Atlantic City, NJ

Hosid, Laura Rosenberg
 Bethesda, MD

Hudson, Richard Seth
 Perrysburg, OH

Ibe, Peter C.
 Washington, DC

Impellizzeri, Julius S.
 Santa Fe, NM

James, Herbert L.
 Sicklerville, NJ

Jarvis, Lori Elliott
 Richmond, VA

Jensen, Jennifer Leonora
 Wilmington, DE

Karanzalis, Amanda Nicole
 Alexandria, VA

Klayman, Larry Elliot
Miami, FL

Martin, Rachel A.
Morgantown, WV

McCafferty, Cara Ann
Cherry Hill, NJ

Mecleary Jr., George Howard
Long Neck, DE

Milner III, C. George
New York, NY

Mitchell, Charles L.
New York, NY

Nieschmidt, Michael Henry
Hightstown, NJ

Perkins, Robert Joseph
Brookline, MA

Perrucci, Michael J.
Phillipsburg, NJ

Petrow, Joel Robert
Germantown, TN

Picker, Cheryl Haft
Warren, NJ

Pochoday, Donna T.
Morristown, NJ

Powell, Wayne
Cherry Hill, NJ

Proner, Mitchell Laurence
New York, NY

Raskin, Mona R.
Linwood, NJ

Segure, Dorian V.
Addisleigh Park, NY

Sheldon, Steven James
Florham Park, NJ

Smith, Andreas Vesalius
Takoma Park, MD

Smith, Brian Matthew
Colorado Springs, CO

Smith, Mark John
Ellicott City, MD

Tedeman, Maria Constantina
Dover, DE

Uwah, Eduok Efiang
Middletown, DE

Voorhees, Gregory Xander
Medford, NJ

White, Simone
Brooklyn, NY

Yates, Leslie McKnight
Washington, DC

Zis, Peter J.
Richton Park, IL

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 08-2344. Filed for public inspection December 26, 2008, 9:00 a.m.]