

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 81 AND 83]

Amendment of Rules 102, 104, 205, 206, 208, 209, 213—219, 301, 401 and 403 of the Pennsylvania Rules of Disciplinary Enforcement and Rule 8.3 of the Rules of Professional Conduct; No. 178 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 18th day of April, 2019, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for comment in the *Pennsylvania Bulletin*, 48 Pa.B. 5717 (September 15, 2018) and 48 Pa.B. 7391 (December 1, 2018):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 102, 104, 205, 206, 208, 209, 213—219, 301, 401 and 403 of the Pennsylvania Rules of Disciplinary Enforcement and Rule 8.3 of the Rules of Professional Conduct are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.3. Reporting Professional Misconduct.

* * * * *

Comment:

* * * * *

(9) Likewise, Pa.R.D.E. 216(e) requires an attorney who has been transferred to disability inactive status or disciplined in another court or by any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys by any state or territory of the United States or of the District of Columbia, a United States court, or by a federal administrative agency or a military tribunal, by suspension, disbarment, or revocation of license or pro hac vice admission, or who has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction, to report the fact of that transfer, suspension, disbarment, revocation or resignation to the

[Secretary of the] Disciplinary Board of the Supreme Court of Pennsylvania within 20 days after the date of the order, judgment or directive imposing or confirming the discipline or transfer to disability inactive status.

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter A. PRELIMINARY PROVISIONS

Rule 102. Definitions.

(a) *General Rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

* * * * *

Court—The Supreme Court of Pennsylvania.

“Court Prothonotary.” The Prothonotary of the Supreme Court of Pennsylvania.

“Disciplinary Counsel.”—The Chief Disciplinary Counsel and [assistant] disciplinary counsel within the Office of Disciplinary Counsel.

* * * * *

“Experienced hearing committee member.”—An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has served [as a member of a panel of hearing committee members for at least one year and on a hearing committee that has conducted at least one hearing into formal charges of misconduct by a respondent-attorney] on at least one hearing committee that has conducted a hearing into formal charges of misconduct by a respondent-attorney.

* * * * *

Informal admonition—Private informal admonition by Disciplinary Counsel.

“Legal Counsel.” Counsel to the Board and Special Counsel.

Military attorney—An attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).

* * * * *

[Prothonotary—The Prothonotary of the Supreme Court of Pennsylvania.]

* * * * *

“Senior hearing committee member.”—An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has [previously] served either (i) as a member of the Board, or (ii) [a full three-year term on a panel of hearing committee members and on hearing committees that have conducted hearings into formal charges of misconduct by respondent-attorneys] on at least two hearing committees that have conducted hearings into formal charges of misconduct by respondent-attorneys.

Special Master—[A special master assigned] Assigned under Enforcement Rule 206 (relating to hearing committees and special masters), includes former Board members, former or retired justices or judges not on senior status, Special Counsel, and former senior hearing committee members.

* * * * *

Rule 104. Filings with the Supreme Court.

* * * * *

(c) *Centralized filing.* All filings with the Supreme Court under these rules shall be made only with the [**prothonotary**] **Court Prothonotary**, and the person making a filing shall not distribute copies to the members of the Court.

Subchapter B. MISCONDUCT

Rule 205. The Disciplinary Board of the Supreme Court of Pennsylvania.

* * * * *

(c) The Board shall have the power and duty:

(1) To consider the conduct of any person subject to these rules after investigation by Disciplinary Counsel pursuant to Enforcement Rule 207(b)(1). Complaints filed directly with the Board shall be forwarded to [**the Office of**] Chief Disciplinary Counsel for assignment to a district office.

Official Note: In order to avoid the commingling of prosecutorial and adjudicative functions, which would be a violation of due process, see *Lyness v. Com. of Pa., State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204 (1992), the Office of Disciplinary Counsel is charged with the duty of investigating and prosecuting all disciplinary matters subject to adjudication by the Board. See Enforcement Rule 208(a)(1), (a)(2)(iv). Under Enforcement Rule 208(d)(1), Board Members appointed in a matter to review Disciplinary Counsel’s charging decisions or recommended disposition are precluded from further participation in that matter.

(2) To appoint [**a Secretary**] **an Executive Director**, a Chief Disciplinary Counsel, **Legal Counsel** and such [**assistant disciplinary counsel and**] staff as may from time to time be required to properly perform the functions prescribed by these rules.

* * * * *

(4) To assign [**as**] special masters [**three or more former members of the Board or former or retired justices or judges who are not in senior judge status. The expenses and compensation of the special masters shall be paid as a cost of disciplinary administration and enforcement. See Enforcement Rule 219(a) (relating to annual registration of attorneys)] pursuant to Rule 206(d).**

(5) To assign formal charges or the conduct of an investigatory hearing to a hearing committee or special master, and to assign a reinstatement petition to a hearing committee. [**The assignment to a hearing committee of formal charges, the conduct of an investigatory hearing, or a reinstatement petition may be delegated by the Board to its Secretary.**] A hearing committee member who has passed upon Disci-

plinary Counsel’s recommended disposition of the matter shall be ineligible to serve on the hearing committee that considers the matter.

* * * * *

(7) To assign [**periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to**]:

(i) **hearing committee members** to review and approve or modify recommendations by Disciplinary Counsel for dismissals, informal admonitions, private reprimands, public reprimands and institution of formal charges;

(ii) **senior or experienced hearing committee members** to hear and determine attacks on the validity of subpoenas issued pursuant to Enforcement Rule 213(a)(2) (relating to subpoena power, depositions and related matters), as provided in Enforcement Rule 213(d)(2); or

(iii) **senior or experienced hearing committee members** to consider a petition for reinstatement to active status from retired or inactive status, or administrative suspension, under Enforcement Rule 218 (relating to reinstatement) of a formerly admitted attorney who has not been suspended or disbarred.

* * * * *

Rule 206. Hearing committees and special masters.

(a) When a hearing committee is required to handle a matter, the Board shall appoint a hearing committee consisting of three hearing committee members from the appropriate disciplinary district. **Under exigent circumstances, the Board has the discretion to appoint a hearing committee member or members from outside the appropriate disciplinary district, or to require that a matter be transferred to another disciplinary district.** At least one of the members of the hearing committee shall be a senior hearing committee member, and another member shall be either a senior hearing committee member or an experienced hearing committee member. The Board shall designate one of the members so appointed as the chair for the committee, who shall be a senior hearing committee member. The terms of hearing committee members shall be three years and no member shall serve for more than two consecutive three-year terms. Board rules may authorize a hearing committee member whose term has expired to continue to serve until the conclusion of any matter commenced before the member prior to the expiration of such term. A hearing committee member who has served two consecutive three-year terms may be reappointed after the expiration of one year. A hearing committee shall act only with the concurrence of a majority of its members and two members shall constitute a quorum, except that a single senior or experienced hearing committee member may act for the committee when the committee is sitting as an investigatory hearing committee under Enforcement Rule 213(a)(1) (relating to subpoena power, depositions and related matters), or when conducting a prehearing conference. The terms of hearing committee members shall commence on July 1.

(b) Hearing committees shall have the power and duty:

(1) To conduct investigatory hearings and hearings into formal charges of misconduct upon assignment by the Board [**or the Secretary of the Board**] (see Enforcement Rule 205(c)(5)).

(2) To submit their conclusions set forth as prescribed by Board rules, together with the record of the hearing, to the Board.

(c) If a member of a hearing committee becomes disqualified or otherwise unavailable to serve with respect to any particular matter, the [**Secretary**] **Board** shall designate a replacement.

(d) A special master instead of a hearing committee may be assigned by the Board to conduct an investigatory hearing or formal proceeding [**where it appears that the hearing or proceeding may be protracted and should be conducted continuously from day to day until conclusion**].

* * * * *

Rule 208. Procedure.

* * * * *

(f) *Emergency temporary suspension orders and related relief.*

* * * * *

Where the Court enters an order under (f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the **Court** Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

* * * * *

(4) The respondent-attorney may at any time petition the Court for dissolution or amendment of an order of temporary suspension. A copy of the petition shall be served upon Disciplinary Counsel and the [**Secretary of the**] Board. A hearing on the petition before a member of the Board designated by the Chair of the Board shall be held within ten business days after service of the petition on the [**Secretary of the**] Board. The designated Board member shall hear the petition and submit a transcript of the hearing and a recommendation to the Court within five business days after the conclusion of the hearing. Upon receipt of the recommendation of the designated Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

* * * * *

(6) A respondent-attorney who has been temporarily suspended pursuant to this rule for conduct described in paragraph (1), or pursuant to the procedures of paragraph (5) where a formal proceeding has not yet been commenced shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the [**Secretary of the**] Board and Disciplinary Counsel requesting accelerated disposition. Within 30 days after filing of such a notice, Disciplinary Counsel shall file a petition for discipline under subdivision (b) of this rule and the matter shall be assigned to a hearing committee for accelerated disposition. Thereafter the matter shall proceed and be concluded by the hearing committee, the Board and the Court without appreciable delay. If a petition for discipline is not timely filed under this paragraph, the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this rule.

* * * * *

(h) *Violation of probation.* Where it appears that a respondent-attorney who has been placed on probation

has violated the terms of the probation, [**the Office of**] Disciplinary Counsel may file a petition with the Board detailing the violation and suggesting appropriate modification of the order imposing the probation, including without limitation immediate suspension of the respondent-attorney. A hearing on the petition shall be held within ten business days before a member of the Board designated by the Board Chair. If the designated Board member finds that the order imposing probation should be modified, the following procedures shall apply:

* * * * *

Rule 209. Immunity.

* * * * *

(b) Complaints against members of the Board involving alleged violations of the Disciplinary Rules or these rules shall be handled in the same manner as other complaints, except that if action is required by the Board, the [**Secretary**] **Board** shall notify the Supreme Court which shall appoint an Ad Hoc Disciplinary Board comprised of five former members of the Board who shall discharge the functions of the Board and have all the powers of the Board with respect to that one matter only.

* * * * *

Rule 213. Subpoena power, depositions and related matters.

* * * * *

(b) *Procedure.* Subpoenas authorized by subdivision (a) shall be obtained by filing with the **Court** Prothonotary in the district of the Supreme Court where the subpoena is to be returnable a statement calling for the issuance of the subpoena. On the same day that the statement is filed with the **Court** Prothonotary, the party seeking the subpoena shall send by certified mail a copy of the statement to either Disciplinary Counsel or the respondent-attorney as the case may be. Upon the filing of the statement, the **Court** Prothonotary shall forthwith issue the subpoena and it shall be served in the regular way. A subpoena issued pursuant to subdivision (a)(2) shall not be returnable until at least ten days after the date of its issuance.

* * * * *

Rule 214. Attorneys convicted of crimes.

* * * * *

(d)(1) Upon the filing with the Supreme Court of a certified copy of an order demonstrating that an attorney has been convicted of a crime, the Court may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days.

* * * * *

(4) The respondent-attorney may at any time petition the Court for dissolution or amendment of an order of temporary suspension. A copy of the petition shall be served upon Disciplinary Counsel and the [**Secretary of the**] Board. A hearing on the petition before a member of the Board designated by the Chair of the Board shall be held within ten business days after service of the petition on the [**Secretary of the**] Board. The designated Board member shall hear the petition and submit a transcript of the hearing and a recommendation to the Court within five business days after the conclusion of the hearing. Upon receipt of the recommendation of the designated

Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

* * * * *

(f)(1) Upon the filing of a certificate of conviction of an attorney for a crime, Disciplinary Counsel may commence either an informal or formal proceeding under Enforcement Rule 208, except that Disciplinary Counsel may institute a formal proceeding before a hearing committee or special master by filing a petition for discipline with the Board without seeking approval for the prosecution of formal charges under Enforcement Rule 208(a)(3). If a petition for discipline is filed, a hearing on the petition shall be deferred until sentencing and all direct appeals from the conviction have been concluded. The sole issue at the hearing shall be the extent of the discipline or, where the Court has temporarily suspended the attorney under subdivision (d) of this rule, the final discipline to be imposed.

Official Note: subdivision (f)(1) authorizes Disciplinary Counsel to proceed under Rule 208 concurrently with the Court's exercise of jurisdiction under subdivision (d) of this Rule.

(2) Notwithstanding the provision of paragraph (1) that a hearing shall not be held until sentencing and all appeals from a conviction have been concluded, a respondent-attorney who has been temporarily suspended pursuant to this rule shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the [**Secretary of the**] Board and Disciplinary Counsel requesting accelerated disposition. Within 30 days after filing of such a notice, Disciplinary Counsel shall file a petition for discipline, if such a petition has not already been filed, and the matter shall be assigned to a hearing committee for accelerated disposition. The assignment to a hearing committee shall take place within seven (7) days after the filing of such a notice or the filing of a petition for discipline, whichever occurs later. Thereafter the matter shall proceed and be concluded by the hearing committee, the Board and the Court without appreciable delay. If a petition for discipline is not timely filed or assigned to a hearing committee for accelerated disposition under this paragraph, the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this rule.

* * * * *

Rule 215. Discipline on consent.

(a) *Voluntary resignation.*—An attorney who is the subject of an investigation into allegations of misconduct by the attorney may submit a resignation, but only by delivering to Disciplinary Counsel or the [**Secretary of the**] Board a verified statement stating that the attorney desires to resign and that:

* * * * *

(6) the attorney is aware that pursuant to subdivision (c) of this Rule, the fact that the attorney has tendered his or her resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the [**Secretary of the**] Board;

* * * * *

(b) *Order of disbarment.*—Upon receipt of the required statement, the [**Secretary of the**] Board shall file it

with the Supreme Court and the Court shall enter an order disbarring the attorney on consent.

(c) *Confidentiality of resignation statement.*—The fact that the attorney has submitted a resignation statement to Disciplinary Counsel or the [**Secretary of the**] Board for filing with the Supreme Court shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the [**Secretary of the**] Board. The order disbarring 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:

* * * * *

Rule 216. Reciprocal discipline and disability.

* * * * *

(e) An attorney who has been transferred to disability inactive status or disciplined in another court or by any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys by any state or territory of the United States or of the District of Columbia, a United States court, or by a federal administrative agency or a military tribunal, by suspension, disbarment, or revocation of license or pro hac vice admission, or who has resigned from the bar or otherwise relinquished his or her license to practice while under disciplinary investigation in another jurisdiction, shall report the fact of such transfer, suspension, disbarment, revocation or resignation to the [**Secretary of the**] Board within 20 days after the date of the order, judgment or directive imposing or confirming the discipline or transfer to disability inactive status.

Rule 217. Formerly admitted attorneys.

(a) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the [**Secretary of the**] Board and shall serve a conforming copy on [**the Office of**] Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices).

Official Note: Notice may be accomplished, for example, by delivery in person with the lawyer securing a signed receipt, electronic mailing with some form of acknowledgement from the client other than a “read receipt,” and mailing by registered or certified mail, return receipt requested.

(b) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are

involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the [**Secretary of the**] Board and shall serve a conforming copy on [**the Office of**] Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

(c) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status:

(1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status;

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing; and

(3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the [**Secretary of the**] Board and shall serve a conforming copy on [**the Office of**] Disciplinary Counsel. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status.

* * * * *

(e)(1) Within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the [**Secretary of the**] Board a

verified statement and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall:

* * * * *

(iv) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration certificate for the current year, certificate of admission, any certificate of good standing issued by the **Court** Prothonotary, and any other certificate required by subdivision (h) of this Rule to be surrendered; or, in the alternative, aver that he or she has attached all such documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered;

* * * * *

(vii) aver that he or she has served a copy of the verified statement and its attachments on [**the Office of**] Disciplinary Counsel;

* * * * *

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the certificate issued by the Attorney Registration Office under Rule 219(e) (relating to annual registration of attorneys) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by **Court** Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license) or limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys). The Board may destroy the annual certificate issued under Rule 219(e), but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

* * * * *

Rule 218. Reinstatement.

* * * * *

(d) The procedure for petitioning for reinstatement from: retired status for more than three years; inactive status for more than three years; administrative suspension for more than three years; retired status, inactive status or administrative suspension if the formerly admitted attorney has not been on active status at any time within the past three years; or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

* * * * *

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall either:

(i) file a response thereto with the Board and serve a copy on the formerly admitted attorney; or

(ii) file a certification with the Board [**Secretary**] stating that after a review of the petition for reinstatement and reasonably diligent inquiry, Disciplinary Coun-

sel has determined that there is no impediment to reinstatement and that the petitioner-attorney will meet his or her burden of proof under paragraph (d)(3) if the petition were to proceed to hearing under (d)(4).

* * * * *

(6) Upon receipt of a certification filed by Disciplinary Counsel under (d)(2)(ii), the Board Chair shall designate a single member of the Board to review the record and certification and to issue a report and recommendation.

(i) If the Board Member decides that reinstatement should be denied or that a hearing on the petition is warranted, the designated Board Member shall issue a report setting forth the areas of the designated Board Member's concern and direct [**the Board Secretary to schedule**] **that** the matter **be scheduled** for hearing pursuant to subdivision (d)(4) of this rule.

(ii) Upon receipt of a report and recommendation for an order of reinstatement, the Court may enter an order reinstating the formerly admitted attorney to active status and direct that the necessary expenses incurred in the investigation and processing of the petition be paid by the petitioner-attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the **Court** Prothonotary.

* * * * *

(j) The Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:

(1) the certification filed with the **Court** Prothonotary under Enforcement Rule 219(h) or (m); or

* * * * *

Rule 219. Annual registration of attorneys.

* * * * *

(f) Any attorney who fails to complete registration by July 16 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 1, at which time the continued failure to comply with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the **Court** Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

* * * * *

(g) The Attorney Registration Office shall provide to the [**Office of the Secretary**] **Board** a copy of any certification filed by the Attorney Registration Office with the Supreme Court pursuant to the provisions of this rule.

(h) An attorney who has been administratively suspended pursuant to subdivision (f) for three years or less is not eligible to file the annual fee form electronically. The procedure for reinstatement is as follows:

* * * * *

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the [**Office of the Secretary**] **Board** and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the **Court** Prothonotary [**of the Supreme Court**] shall operate as an order reinstating the person to active status.

* * * * *

(i) *Retired Status:* An attorney who has retired must file by mail or deliver in person to the Attorney Registration Office an application for retirement and payment of any applicable late fees or penalties pursuant to subdivision (f). Upon the transmission of such application from the Attorney Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to retired status, and the attorney shall no longer be eligible to practice law. The retired attorney will be relieved from payment of the annual fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the **Court** Prothonotary.

* * * * *

(m) Upon payment of all expenses taxed pursuant to Enforcement Rule 208(g) by a formerly admitted attorney on administrative suspension solely for failure to comply with subdivision (l) of this rule, the Board shall so certify to the Supreme Court. Unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Board with the **Court** Prothonotary [**of the Supreme Court**] shall operate as an order reinstating the person to active status.

* * * * *

Subchapter C. DISABILITY AND RELATED MATTERS

Rule 301. Proceedings where an attorney is declared to be incapacitated or severely mentally disabled.

* * * * *

(e) If, during the course of a disciplinary proceeding, the respondent contends that the respondent is suffering from a disability by reason of mental or physical infirmity

or illness, or because of addiction to drugs or intoxicants, which makes it impossible for the respondent to prepare an adequate defense, the respondent shall complete and file with the Court a certificate of admission of disability [**available to the bar through the Office of the Secretary to the Board**]. The respondent shall serve a copy of the certificate on the Board and [**disciplinary counsel**] **Disciplinary Counsel**. The certificate shall:

* * * * *

Upon receipt of the certificate, the Court thereupon shall enter an order immediately transferring the respondent to inactive status until a determination is made of the respondent's capacity to aid effectively in the preparation of a defense or to continue to practice law in a proceeding instituted in accordance with the provisions of subdivision (d) of this rule unless the Court finds that the certificate does not comply with the requirements of this subdivision, in which case the Court may deny the request for transfer to disability inactive status or enter any other appropriate order. Before or after the entry of the order transferring the respondent to inactive status under this subdivision, the Court may, upon application by [**disciplinary counsel**] **Disciplinary Counsel** and for good cause shown, take or direct such action as the Court deems necessary or proper to a determination of whether it is impossible for the respondent to prepare an adequate defense, including a direction for an examination of the respondent by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the respondent.

* * * * *

Subchapter D. MISCELLANEOUS PROVISIONS

Rule 401. Expenses.

The salaries of the [**Secretary of the Board, Disciplinary Counsel and staff**] **Disciplinary Board employees**, their expenses, administrative costs, [**and the**] expenses of the members of the Board and of hearing committees, **and expenses and compensation, if any, of special masters** shall be paid by the Board out of the funds collected under the provisions of Enforcement Rule 219 (relating to annual registration of attorneys) **and Enforcement Rule 208 (relating to costs)**. The Board shall annually obtain an independent audit by a certified public accountant of the funds entrusted to it and their disposition and shall file a copy of such audit with the Court.

Rule 403. Emeritus Status.

* * * * *

(f) *Approval of Eligible Legal Aid Organization.* Prior to the commencement of services described in (d), the emeritus attorney shall submit an Eligible Legal Aid Organization Form to the [**Secretary of the**] Board for approval. The emeritus attorney shall submit a separate form for each eligible legal aid organization for which the attorney expects to perform pro bono services. The form shall include the following:

* * * * *

[Pa.B. Doc. No. 19-648. Filed for public inspection May 3, 2019, 9:00 a.m.]

**Title 204—JUDICIAL SYSTEM
GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CH. 93]**

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 88

By Order dated February 7, 2019, the Supreme Court of Pennsylvania amended Pa.R.D.E. 219(a) and (j) and 502(b) related to the annual assessment of attorneys. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

ANNUAL REGISTRATION OF ATTORNEYS

§ 93.141. Annual registration.

(a) *General rule.* Enforcement Rule 219(a) provides that every attorney admitted to practice law in this Commonwealth shall pay an annual fee of [**\$120.00**] **\$140.00** and electronically file the annual fee form provided for under such rule by July 1; that the fee shall be collected under the supervision of the Attorney Registration Office, which shall make the annual fee form avail-

able for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. The fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.

Official Note: Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Pa.R.D.E. 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security.

* * * * *

[Pa.B. Doc. No. 19-649. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 93]

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 89

By Order dated February 15, 2019, the Supreme Court of Pennsylvania amended Pa.R.D.E. 208(g) related to the imposition of penalties on unpaid costs and fees. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

TAXATION OF COSTS

§ 93.111. Determination of reimbursable expenses.

* * * * *

(c) *Administrative fee.* Enforcement Rule 208(g)(4) provides that in addition to the payment of any expenses under Enforcement Rule 208(g)(1) or (g)(2), a respondent-attorney shall pay upon the final order of discipline an administrative fee, pursuant to the schedule set forth in the rule.

(d) Assessed Penalties on Unpaid Taxed Expenses and Administrative Fees.

(1) Failure to pay taxed expenses within thirty days of the assessment becoming final in accordance with subdivisions (g)(1) and (g)(2) and/or failure to pay administrative fees assessed in accordance with subdivision (g)(4) within thirty days of notice transmitted to the respondent-attorney shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court of Pennsylvania, from time to time.

(2) Monthly penalties shall not be retroactively assessed against unpaid balances existing prior to the enactment of the rule; monthly penalties shall be assessed against these unpaid balances prospectively, starting 30 days after the effective date of the rule.

(3) The Disciplinary Board for good cause shown, may reduce the penalty or waive it in its entirety.

[Pa.B. Doc. No. 19-650. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 93]

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 90

By Order dated February 25, 2019, the Supreme Court of Pennsylvania amended Pa.R.D.E. 219(f) related to the timelines for attorney registration. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July

31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

ANNUAL REGISTRATION OF ATTORNEYS

§ 93.144. Administrative suspension for failure to comply.

(a) *Action by Attorney Registration Office.* Enforcement Rule 219(f) provides that when any attorney fails to complete the registration required by §§ 93.141 and 93.142 by July [31] 16, the Attorney Registration Office shall:

(1) automatically assess against the attorney a non-waivable late payment penalty established by the Board;

(2) automatically add to the delinquent account of any attorney who has failed to complete registration by August [31] 1, a second, non-waivable late payment penalty established by the Board;

(3) after August [31] 1, certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of §§ 93.141 and 93.142 of these rules; and

(4) upon the Supreme Court's entry of an order of administrative suspension as provided in subsection (b) of this rule, transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this section, registration shall not be

deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If a check in payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under § 93.142(b)(2) of these rules, shall be added to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of § 93.145(b) of these rules.

* * * * *

[Pa.B. Doc. No. 19-651. Filed for public inspection May 3, 2019, 9:00 a.m.]

**Title 204—JUDICIAL SYSTEM
GENERAL PROVISIONS**

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CH. 89]

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 91

By Order dated March 26, 2019, the Supreme Court of Pennsylvania amended Pa.R.D.E. 208(d)(1) related to review and action by the Board. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

JESSE G. HEREDA,
Executive Director

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.201. Review by Board.

* * * * *

(b) *Oral argument and briefs.* Enforcement Rule 208(d)(1) provides that [**the respondent-attorney**] **both parties** shall have the right to submit briefs and to present oral argument to a panel of at least three members of the Board, unless such right has been waived in the manner provided by these rules.

* * * * *

[Pa.B. Doc. No. 19-652. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

[210 PA. CODE CH. 65]

Amendments to the Superior Court Operating Procedures

The Superior Court of Pennsylvania has adopted amendments to its published Operating Procedures. These amendments are reflected in the Superior Court Operating Procedures with amendments to Pa. Code § 65.37.

These changes were approved on April 16, 2019, effective on that date.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. OPERATING PROCEDURES OF THE SUPERIOR COURT

DECISIONAL PROCEDURES

§ 65.37. [Unpublished Memoranda Decisions] Non-Precedential Decisions (formerly titled Unpublished Memoranda Decisions).

A. [An unpublished memorandum decision shall not be relied upon or cited by a Court or a party in any other action or proceeding, except that such a memorandum decision may be relied upon or cited (1) when it is relevant under the doctrine of law of the case, *res judicata*, or collateral estoppel, and (2) when the memorandum is relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding. When an unpublished memorandum is relied upon pursuant

to this rule, a copy of the memorandum must be furnished to the other party and to the Court.]

For purposes of these operating procedures, “non-precedential decision” refers to an unpublished, non-precedential, memorandum decision of the Superior Court filed after May 1, 2019. All references to a memorandum decision filed after May 1, 2019, within these operating procedures shall be analogous to “non-precedential decision” for purposes of Pa.R.A.P. 126(b).

Comment

The title to this O.P. was changed to reflect the Amendments enacted by the Supreme Court to Pa.R.A.P. 126, effective May 1, 2019. See 278 Appellate Procedural Rules Docket (order amending Pa.R.A.P. 126) (Pa. 2019).

B. [After an unpublished memorandum decision has been filed, the panel may sua sponte, or on the motion of any party to the appeal, or on request by the trial judge, convert the memorandum to a published opinion. In the case of a motion of any party to the appeal or a request from the trial judge, such motion or request must be filed with the Prothonotary within 14 days after the entry of the judgment or other order involved. The decision to publish is solely within the discretion of the panel.]

Non-precedential decisions filed after May 1, 2019, may be cited for their persuasive value, pursuant to Pa.R.A.P. 126(b). An unpublished memorandum decision filed prior to May 2, 2019, shall not be relied upon or cited by a Court or a party in any other action or proceeding, except that such a memorandum decision may be relied upon or cited (1) when it is relevant under the doctrine of law of the case, *res judicata*, or collateral estoppel, and (2) when the memorandum is relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding. When an unpublished memorandum filed prior to May 2, 2019, is relied upon pursuant to this rule, a copy of the memorandum must be furnished to the other party and to the Court.

C. After an unpublished memorandum decision has been filed, the panel may sua sponte, or on the motion of any party to the appeal, or on request by the trial judge, convert the memorandum to a published opinion. In the case of a motion of any party to the appeal or a request from the trial judge, such motion or request must be filed with the Prothonotary within 14 days after the entry of the judgment or other order involved. The decision to publish is solely within the discretion of the panel.

[Pa.B. Doc. No. 19-653. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IV]

Proposed Amendment of the Comment to Pa.R.E. 401

The Committee on Rules of Evidence is considering proposing to the Supreme Court of Pennsylvania the

amendment of the Comment to Pennsylvania Rule of Evidence 401 describing the relevancy of evidence of class for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Daniel A. Durst, Counsel
Committee on Rules of Evidence
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717.231.9536
evidencerules@pacourts.us

All communications in reference to the proposal should be received by June 4, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Committee on
Rules of Evidence*

JOHN P. KRILL, Jr.,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCE AND ITS LIMITS

Rule 401. Test for Relevant Evidence.

Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.

Comment

This rule is identical to F.R.E. 401.

Whether evidence has a tendency to make a given fact more or less probable is to be determined by the court in the light of reason, experience, scientific principles and the other testimony offered in the case.

Generally, evidence of a person's race, sex, gender identity or expression, religion, national origin, immigration status, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation is irrelevant and inadmissible. See Pa.R.E. 402 (evidence not relevant is not admissible). Such evidence may also be subject to analysis under Pa.R.E. 403, concerning unfair prejudice.

The relevance of proposed evidence may be dependent on evidence not yet of record. Under Pa.R.E. 104(b), the court may admit the proposed evidence on the condition that the evidence supporting its relevance be introduced later.

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013; **adopted** _____, **2019, effective** _____, **2019.**

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the _____, **2019 amend-**
ment of the Comment published with the Court's
Order at 49 Pa.B. (_____, **2019).**

REPORT

Proposed Amendment of the Comment to Pa.R.E. 401

The Committee on Rules of Evidence is considering proposing the amendment of the Comment to Pennsylvania Rule of Evidence 401 describing the relevancy of evidence of class. The catalyst for this proposal was a recommendation of the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness for changes to the Pennsylvania Rules of Evidence to limit the admissibility of a party's or witness' immigration status.

The Committee considered the admissibility of a person's immigration status as an evidentiary matter. For example, in *State v. Sanchez-Medina*, 176 A.3d 788 (N.J. 2018), the New Jersey Supreme Court considered the admissibility of a criminal defendant's immigration status in a trial for sexual assault crimes. Recognizing there may be limited circumstances when immigration status may be relevant, the court concluded that those cases are rare. In most cases, immigration status is irrelevant and therefore inadmissible. *See also* Pa.R.E. 402 ("Evidence that is not relevant is not admissible."). The court went on to cite other jurisdictions' case law having a similar holding concerning relevancy. The *Sanchez-Medina* court also cited case law holding that evidence of immigration status can be unduly prejudicial. *See also* Pa.R.E. 403 (excluding relevant evidence if its probative value is outweighed by the danger of unfair prejudice). When seeking to admit this evidence, the court indicated that the issue should first be raised with the judge outside the presence of the jury and, if admitted, it should be accompanied by a limiting jury instruction.

Washington adopted Washington Rule of Evidence 413, effective September 1, 2018, that generally prohibits evidence of immigration status in criminal and civil proceedings. The rule also sets forth procedures to determine the admissibility of such evidence, which generally resemble motion *in limine* practice.

Effective January 1, 2017, the California Evidence Code was amended to exclude evidence of a person's immigration status in a civil action for personal injury or death. Cal. Evid. Code § 351.2. In other civil actions and in criminal proceedings, the court must determine the admissibility of the evidence in an *in camera* hearing. *Id.* §§ 351.3, 351.4 (sunsetting January 1, 2022). There is also pre-existing case law in California limiting the use of immigration status as evidence. *See, e.g., Rodriguez v. Kline*, 186 Cal. App. 3d 1145 (1986).

The Committee believed there was persuasive authority for the exclusion of immigration status that is either irrelevant or unduly prejudicial. The Committee next considered whether the existing Pennsylvania Rules of Evidence, when applied to evidence of immigration status, would operate to exclude such evidence if irrelevant or unduly prejudicial. The Committee believed the existing

Rules should, but additional commentary to Rule 401 would be beneficial to guide the application of the Rules.

Thereafter, the Committee considered whether the commentary should address only immigration status or whether there are other classifications capable of undue prejudice without relevance. In this context, the Committee did not believe that only one particular class should be identified; rather, public policy prohibits discrimination against a number of classes. *See, e.g.*, 43 P.S. § 952 (identifying classes subject to the Pennsylvania Human Relations Act); *Policy on Non-Discrimination and Equal Employment*, Supreme Court of Pennsylvania (Rev. 2016); Pennsylvania Code of Judicial Conduct Rule 2.3. Informed by these prohibitions, the Committee attempted to create a more expansive list of classes.

The proposed commentary is intended to reflect within the Pennsylvania Rules of Evidence the construct that evidence of class is presumptively irrelevant. However, the word “generally” is used at the beginning of the commentary to signal that evidence of class is not irrelevant *per se*. For example, disability may be relevant in an action to enforce the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.* Likewise, immigration status may be relevant in a guilty plea colloquy. *See e.g., Padilla v. Kentucky*, 559 U.S. 356 (2010) (counsel must inform a non-citizen defendant as to whether a plea carries a clear risk of deportation). The Committee also added reference to Pa.R.E. 403 in the Comment to indicate that evidence of class may be relevant under Pa.R.E. 401 and still be excluded as unduly prejudicial.

All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 19-654. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Family Division Rule of the Court of Common Pleas; No. AD-2019-146-FD Rules Doc.

Order of Court

And Now, this 15th day of April, 2019, it is hereby Ordered that the following Rule 1915.11-1 of the Court of Common Pleas of Allegheny County, Pennsylvania, Family Division, adopted by the Board of Judges shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

LOCAL RULE 1915.11-1—Parenting Coordination

By the Court

KIM BERKELEY CLARK,
President Judge

Rule 1915.11-1. Parenting Coordination.

(a) *Appointment of a Parenting Coordinator.*

(1) If the parties agree on a Parenting Coordinator or if the Court deems one necessary, an order will be entered in accordance with Pa.R.Civ.P. 1915.22.

(2) The Court will select the parties’ Parenting Coordinator. If the parties can agree to a Parenting Coordinator, they may present their selection to the Judge for approval. The roster of the Court’s approved Parenting

Coordinators is posted at the Child Custody Department, Suite 1030 Family Law Center, 440 Ross Street, Pittsburgh, PA 15219.

(3) Any party seeking a reduced fee under section (d) below must file with the Court an In Forma Pauperis (IFP) petition through the Client Services Department, first floor Family Law Center, 440 Ross Street, Pittsburgh, PA 15219, which shall be presented before the assigned Judge in motions court, on the next available date that they are sitting. Approval of the IFP petition to a reduced fee for the Parenting Coordinator may result in amendment of the appointment order.

(b) *Roster of Approved Parenting Coordinators.*

An attorney or mental health professional seeking to be included on the Allegheny County Court’s roster of qualified individuals to serve as a Parenting Coordinator shall submit a letter to the Administrative Judge of the Family Division together with the following:

(1) An affidavit attesting the applicant has qualifications found in Pa.R.Civ.P. 1915.11;

(2) Pennsylvania Act 33 child abuse and Act 34 criminal history clearances, within the past two (2) years;

(3) An acknowledgment the applicant will follow the Association of Family and Conciliation Courts (AFCC) Parenting Coordinator guidelines and has read the American Psychological Association (APA) Parenting Coordinator Guidelines; and

(4) An acknowledgment of responsibility to accept reduced fee assignments for every four (4) full fee appointments taken, as needed. (Appointments for reduced fee assignments will be made on a rotating basis for all Parenting Coordinators on the Court’s roster).

AFCC Parenting Coordinator guidelines are posted at <https://www.afccnet.org/Portals/0/AFCCGuidelinesforParentingcoordinationnew.pdf> and the APA Parenting Coordinator Guidelines are posted at <https://www.apa.org/pubs/journals/features/parenting-coordination.pdf>.

(c) *Parenting Coordinator Recommendations*

(1) In addition to providing the same to the parties and the assigned Judge, a Parenting Coordinator shall file their Summary and Recommendations with the Allegheny County Department of Court Records within two (2) days after the last communication with the parties on the issues in accordance with Pa.R.Civ.P. 1915.11-1(f)(2). A Proof of service shall also be filed.

(2) *Objections to Parenting Coordinator’s Recommendation(s) and Petition for a Record Hearing.*

a. A party objecting to the Recommendations must file with the Allegheny County Department of Court Records an original and copy of their Objections and a Petition for a Record Hearing before the Court within five days of service of the Summary and Recommendations together with a Proof of Service upon all parties and the Parenting Coordinator. A copy shall also be provided to the Judge of record in accordance with their Standard Operating Procedures.

b. The Judge shall schedule a record hearing as soon as practical on the objections.

c. If timely objections are filed, the Parenting Coordinator’s recommendation may be entered as an interim order by the Judge pending final disposition.

(3) *Court Review of Parenting Coordinator’s Recommendations.*

If no objections to the Parenting Coordinator’s Recommendation are filed with the Allegheny County Department of Court Records and a copy to the Judge of record within five days of service of the Summary and Re

commendation, the Family Court Judge will review the Recommendation in accordance with Pa.R.C.P. 1915.11-1(f)(4).

(d) FEES

Parties who request the appointment of a Parenting Coordinator or who are identified by the Court as benefiting from the appointment of a Parenting Coordinator shall pay the Parenting Coordinator as follows:

(1) Up to \$300.00 an hour;

(2) The Judge shall initially allocate the fees between the parties, but they may be reallocated as deemed appropriate by the Parenting Coordinator or the Court at a later date. See Pa.R.C.P. 1915.22(8).

(3) If, after a review of the In Forma Pauperis (IFP) petition, the parties' combined gross income and family size is at or below the Federal Poverty Guidelines, the Parenting Coordinator's fee shall be pro bono. If, after a review of the In Forma Pauperis (IFP) petition, the parties' combined gross income and family size is between the Federal Poverty Guidelines and 150% of the Federal Poverty Guidelines, the Parenting Coordinator's fee shall be 50% of their hourly rate. All other litigants are required to pay the full fee.

[Pa.B. Doc. No. 19-655. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Family Division Rule of the Court of Common Pleas; No. AD-2019-147-FD Rules Doc.

Order of Court

And Now, this 15th day of April, 2019, it is hereby Ordered that the following Rule 1930(a)(7) of the Court of Common Pleas of Allegheny County, Pennsylvania, Family Division, adopted by the Board of Judges shall be effective thirty (30) days after publication in the Pennsylvania Bulletin:

AMENDED LOCAL RULE 1930 ADDING SECTION 1930(a)(7)—Meet & Confer Requirement for Family Division Motions

By the Court

KIM BERKELEY CLARK, President Judge

Rule 1930. Domestic Relations Matters Generally.

(a) Family Division Motions

* * * * *

(7) Meet & Confer Requirement for Family Division Motions

(i) Litigants are to confer prior to the filing and/or presentation of any motion before the Court and are to attempt, in good faith, to reach amicable resolution of the issues involved. (litigants include: counsel representing a party and parties who are self-represented.) Each motion filed shall contain a certificate of compliance setting forth a brief statement of the extrajudicial means employed to resolve the dispute, in substantially the form set forth below.

(ii) Failure to comply with this rule may result in sanctions. Good faith efforts toward amicable resolution

shall be considered as a factor in determining whether or not the requested relief is appropriate, the propriety of sanctions, or in determining the exigency of circumstances, if relevant.

(iii) In the event that any party is self-represented in a matter where any party involved in the matter is either a protected party in a PFA, or has been the subject of domestic violence allegedly perpetrated by the opposing party at any time within the past 24 months, the party must state so in their certificate and said reason shall be sufficient for purposes of this rule in excusing the requirement to confer in advance.

(iv) Certificate of Compliance with Rule 1930(a)(7) Form

Docket No. _____

CERTIFICATE OF COMPLIANCE WITH RULE _____

I certify that I have complied with Local Rule _____ as noted below.

- ☐ Talked by phone (date)
☐ Met in Person (date)
☐ Telephoned/Left message (date)
☐ Emailed (date)
☐ Emergency
☐ Other:
☐ Domestic Violence Waiver
☐ Unable to Confer because:

Signature

[Pa.B. Doc. No. 19-656. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Adoption of Local Rule of Civil Procedure; 2019-0037-R-CM

Administrative Order No. 9-2019

And Now, this 16th day of April, 2019, the Court approves and adopts the following Chester County Local Rule of Civil Procedure 1915.11-1. In conformity with Pennsylvania Rule of Judicial Administration 103(d), the Court Administrator shall distribute two (2) paper copies of the local rule to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin along with a copy of the local rule on a computer diskette, CD-ROM formatted to MS-DOS, ADDII, Microsoft Word, WordPerfect or alternate form if requested by the Court and agreed upon by the Legislative Reference Bureau. This Rule shall become effective thirty (30) days from the date of publication in the Pennsylvania Bulletin. The

Court Administrator shall file one copy of the local rule with the Administrative Office of Pennsylvania Courts; publish a copy of the local rule on the website of the court or county in which the adopting court has jurisdiction; and incorporate the local rule in the complete set of local rules no later than thirty (30) days following the publication in the *Pennsylvania Bulletin*. The Court Administrator is further directed to publish this Order once in the *Chester County Law Reporter* and once in the *Legal Intelligencer*. Certified copies of the within Order shall be distributed by the Court Administrator as follows: one (1) copy to the Domestic Relations Procedural Rules Committee; one (1) copy to the Prothonotary of Chester County; one (1) copy to the Clerk of Courts of Chester County; one (1) copy to the Court Administrator of Chester County; one (1) copy to the Law Library of Chester County; and one (1) copy to each Judge of this Court.

By the Court

JACQUELINE CARROLL CODY,
President Judge

Order

And Now, this 15th day of April, 2019, Chester County Local Rule of Civil Procedure 1915.11-1 is promulgated as follows:

Chester County Rule 1915.11-1. Parenting Coordination.

(a) *Appointment of a Parenting Coordinator.*

(1) If the parties agree on a Parenting Coordinator or if the Court deems one necessary, an order will be entered in accordance with Pa.R.Civ.P. 1915.22.

(2) If the parties cannot agree on the selection of a Parenting Coordinator, the Court shall require each party to identify his/her choice(s) along with the hourly rate of each to all parties. If the parties cannot agree, the Court will select a Parenting Coordinator. The roster of the Court's approved Parenting Coordinators and their stated hourly rates shall be posted at <http://www.chesco.org>

Any party seeking a pro bono appointment must file with the Prothonotary a Petition to Proceed In Forma Pauperis for the appointment of a Parenting Coordinator within three (3) days of the appointment order absent good cause shown. The In Forma Pauperis form can be found at <http://www.chesco.org>.

(b) *Roster of Approved Parenting Coordinators.*

An attorney or mental health professional seeking to be included on the Chester County Court's roster of qualified individuals to serve as a Parenting Coordinator shall submit an affidavit to the Administrative Family Court Judge or her/his designee together with the following:

(1) An affidavit attesting the applicant has qualifications found in Pa.R.Civ.P. 1915.11-1;

(2) An acknowledgment the applicant has read the Association of Family and Conciliation Courts (AFCC) Parenting Coordinator guidelines and the American Psychological Association (APA) Parenting Coordinator Guidelines; AFCC Parenting Coordinator guidelines are posted at <https://www.afccnet.org/Portals/0/AFCCGuidelinesforParentingcoordinationnew.pdf> and the APA Parenting Coordinator Guidelines are posted at <https://www.apa.org/pubs/journals/features/parenting-coordination.pdf>; and

(3) An acknowledgment that for every 2 fee generating Parenting Coordination assignments, he or she must accept one pro bono assignment (up to 12 hours per pro bono case).

(c) *Parenting Coordinator Recommendations*

(1) Parenting Coordinator shall file their Summary and Recommendations with the Prothonotary within two (2) days after the last communication with the parties on the issues in accordance with Pa.R.Civ.P. 1915.11-1(f)(2).

(2) *Objections to Parenting Coordinator's Recommendation(s) and Petition for a Record Hearing.*

a. A party objecting to the Recommendations must file with the Prothonotary an original and copy of their Objections and a Petition for a Record Hearing before the Court within five days of service of the Summary and Recommendations together with a Proof of Service upon all parties and the Parenting Coordinator.

b. The Prothonotary shall promptly forward the original Objections and Petition to the Court Administrator's Office for assignment to the parties' Family Court Judge to promptly schedule a record hearing. If the matter is an emergency or time-sensitive and the assigned Family Court Judge is not available, the matter will be assigned to the Emergency Custody Judge to conduct a record hearing.

(3) *Court Review of Parenting Coordinator's Recommendations.*

If no objections to the Parenting Coordinator's Recommendation are filed with the Prothonotary within five days of service of the Summary and Recommendation, the Prothonotary shall transmit the file to the Court Administrator's Office to be assigned to the appointing Judge, if available, within a reasonable time, otherwise to any Family Court Judge for review of the Recommendation in accordance with Pa.R.C.P. 1915.11-1(f)(4).

(d) *Fees*

Parties who request the appointment of a Parenting Coordinator or who are identified by the Court as benefiting from the appointment of a Parenting Coordinator shall pay the Parenting Coordinator as follows:

(1) His or her hourly rate, which may be up to \$300.00 an hour; provided, however, if the parties combined monthly net income exceeds the mandatory minimum set forth in the Support Guidelines at 1910/16-2(e)(2) (currently \$30,000 per month), the Court may adjust the hourly rate;

(2) Absent good cause, each party shall pay up to \$500 as an initial retainer (\$1000.00 total) which may be reallocated as deemed appropriate by the Parenting Coordinator or the Court. See Pa.R.C.P. 1915.22(8).

(3) If a party is granted In Forma Pauperis status by the Court specifically for the appointment of a Parenting Coordinator, the Parenting Coordinator so appointed shall serve on a pro bono (no fee) basis, up to 12 hours.

(4) A Parenting Coordinator must accept one pro bono appointment for every two fee generating appointments.

(e) Chester County, through its Administrative Family Court Judge, has entered into a 5 County Compact on Parenting Coordination with Philadelphia County, Montgomery County, Delaware County and Bucks County. The terms of that Compact are incorporated herein, and a copy is annexed hereto.

By the Court

JACQUELINE CARROLL CODY,
President Judge

APPLICATION TO BE CONSIDERED FOR APPOINTMENT AS A PARENTING
COORDINATOR FOR CHESTER COUNTY

AFFIDAVIT—ATTORNEY

I, _____, the undersigned applicant, hereby certify that I possess the minimum qualifications to serve as a Parenting Coordinator as established by Pa.R.C.P. 1915.11-1(b) and the 5 County Compact entered into by Philadelphia, Bucks, Montgomery, Delaware and Chester Counties, as follows:

1. _____ I am licensed to practice in the Commonwealth of Pennsylvania.
 My Attorney ID number is _____ .
 _____ My license is in good standing.
 _____ I have never been subject to attorney discipline. (If Applicant has been subject to discipline, provide details on separate sheet).
 _____ I have practiced family law for _____ years, as follows (or attach CV):

2. _____ I have obtained the special training required by the Rule, and have attached verification for each training:
 _____ hours in the Parenting Coordination process, of which 2 or more hours were specific to Pennsylvania PC practice.
 Date of training: _____
 Provider: _____
 _____ hours of Family mediation (or hours of non-specific mediation training and hours of Family Mediation conducted).
 Date of training: _____
 Provider: _____
 _____ hours of Domestic Violence training.
 Date of training: _____
 Provider: _____
3. _____ I understand that to remain qualified as a Parenting Coordinator in each 2 year period after March 1, 2019, I must take a minimum of 10 additional continuing education credits, of which at least 2 must be on domestic violence.
4. _____ I maintain Professional Liability insurance of \$ _____, which coverage expressly covers me for serving as a Parenting Coordinator. The Declaration page showing the foregoing is attached.
5. _____ I acknowledge that I may not charge more than \$300 per hour (although I may charge less), nor require more than a \$1000 initial retainer. My hourly rate for Parenting Coordination is: \$ _____.
6. _____ I acknowledge that I must accept one pro bono PC appointment for every 2 fee-generating appointments in this judicial district/county, up to 12 hours per pro bono case. I understand that it is my responsibility to advise the court upon acceptance of the second appointment. I further understand that failing to accept a pro bono assignment or to notify the Court is grounds for removal from the roster maintained by this county, and that any removal shall be communicated to the member counties enrolled in the 5 County Compact.
7. _____ I have read Pa.R.C.P 1915.11-1 and understand the scope (and limits) of my authority and the procedures which I must follow when appointed as a Parenting Coordinator.
8. _____ I acknowledge that I have read the Guidelines for Parenting Coordination promulgated by the American Psychological Association and Association of Family and Conciliation Courts.
<https://www.apa.org/practice/guidelines/parenting-coordination>
<http://afccnet.org> (Guidelines for Parenting Coordination)
9. _____ I have read the 5 County Compact and understand the procedure for dealing with complaints and reporting among the member counties.

I swear or affirm that the foregoing statements are true and correct.

APPLICANT:

Name (printed) _____

Signature _____

Date: _____

FOR OFFICIAL USE ONLY

Qualifications Reviewed by: _____ (initials)

Place Application on Roster: Yes No

If No, state reasons:

J.

APPLICATION TO BE CONSIDERED FOR APPOINTMENT AS A PARENTING COORDINATOR FOR CHESTER COUNTY

AFFIDAVIT—MENTAL HEALTH PROFESSIONAL

I, _____, the undersigned applicant, hereby certify that I possess the minimum qualifications to serve as a Parenting Coordinator as established by Pa.R.C.P. 1915.11-1(b) and the 5 County Compact entered into by Philadelphia, Bucks, Montgomery, Delaware and Chester Counties, as follows:

- 1. I have the following professional degree: ...
From (institution and date granted): ...
2. I am licensed to practice in the Commonwealth of Pennsylvania as a ...
My license number is ...
My license is in good standing.
I have never been subject to professional discipline.
I have ___ years of experience in dealing with families involved in child custody matters, as follows (or attach CV):
3. I have obtained the special training required by the Rule, and have attached verification for each training:
___ hours in the Parenting Coordination process, of which 2 or more hours were specific to Pennsylvania PC practice.
Date of training: ...
Provider: ...
___ hours of Family mediation (or hours of non-specific mediation training and hours of Family Mediation conducted).
Date of training: ...
Provider: ...
___ hours of Domestic Violence training.
Date of training: ...
Provider: ...
4. I understand that to remain qualified as a Parenting Coordinator in each 2 year period after March 1, 2019, I must take a minimum of 10 additional continuing education credits, of which at least 2 must be on domestic violence.
5. I maintain Professional Liability insurance of \$ _____, which coverage expressly covers me for serving as a Parenting Coordinator. The Declaration page showing the foregoing is attached.
6. I acknowledge that I may not charge more than \$300 per hour (although I may charge less), nor require more than a \$1000 initial retainer. My hourly rate for Parenting Coordination is: \$ _____.
7. I acknowledge that I must accept one pro bono PC appointment for every 2 fee-generating appointments in this judicial district/county, up to 12 hours per pro bono case. I understand that it is my responsibility to advise the court upon acceptance of the second appointment. I further understand that failing to accept a pro bono assignment or to notify the court is grounds for removal from the roster maintained by this county, and that any removal shall be communicated to the member counties enrolled in the 5 County Compact.

removal from the roster. If a Parenting Coordinator is removed from the roster of a member County for this purpose, they shall share this information with the other member counties.

6. *FEES*:

A. The hourly rate shall not exceed \$300.00 an hour subject to the following exceptions:

a. If the parties combined monthly net income exceeds the mandatory minimum set forth in the Support Guidelines at 1910/16-2(e)(2) (currently \$30,000 per month), the Court may adjust the hourly rate;

b. If a party is granted In Forma Pauperis (IFP) status by the Court for the parenting coordination process.

B. The maximum initial retainer that may be requested shall be \$1,000.

7. Upon being added to the roster of one member County, a parenting coordinator may be added to the roster of another member County by submitting a letter requesting same with a copy of the approval that was obtained from another member County.

8. A Judge appointing a parenting coordinator may be guided by the parties/counsel in the selection of a specific parenting coordinator from the County roster (and/or shall otherwise select one from the roster).

9. Each member County shall establish a Committee to review and consider complaints received about a parenting coordinator and shall recommend removal of a parenting coordinator from the roster of that County for good cause. All complaints received and dispositions of same shall be shared with the other member Counties.

10. The aforementioned review Committee shall consist of the following: Family Court Administrative Judge (or their designee); the Judge who appointed the parent coordinator at issue (or their designee); Court Administrator representative, one family law attorney (from the roster of parenting coordinators) and one mental health professional (from the roster of parenting coordinators).

FORM AFFIDAVIT ATTACHED

[Pa.B. Doc. No. 19-657. Filed for public inspection May 3, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MERCER COUNTY

Local Rule of Civil Procedure L1301; No. 2019-1173

And Now, this 29th day of March, 2019, The Court Hereby *Approves, Adopts and Promulgates* Mercer County Local Rule of Civil Procedure L1301, effective thirty (30) days after the date publication in the *Pennsylvania Bulletin*, pursuant to Rule 103(c) of the Pennsylvania Rules of Judicial Procedure, and Rule 239 of the Pennsylvania Rules of Civil Procedure.

It is further *Ordered and Directed* that the Court Administrator of Mercer County shall file one (1) certified copy each of these orders with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies each to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Civil Procedural Rules Committee.

It is further *Ordered and Directed* that this Rule shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, these offices shall furnish to any person a copy of these Administrative Orders. This order shall be published in the *Mercer County Law Journal*.

By the Court

ROBERT G. YEATTS,
President Judge

ARBITRATION

Rule L1301. Scope.

All cases which are now or later at issue where the amount in controversy shall be thirty-five thousand dollars (\$35,000) or less, exclusive of interest and costs, except those involving title to real estate, shall be submitted to and be heard by a board of arbitrators consisting of three (3) members of the Bar in active practice in this county.

[Adopted March 29, 2019, effective 30 days after publication in the *Pennsylvania Bulletin*.]

[Pa.B. Doc. No. 19-658. Filed for public inspection May 3, 2019, 9:00 a.m.]