

# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[ 201 PA. CODE CH. 2 ]

**Amendments to Rules 250—252 of the Pennsylvania Rules of Judicial Administration and Adoption of Rules 260—263 of the Pennsylvania Rules of Judicial Administration; No. 561 Judicial Administration Doc.**

### Order

*Per Curiam*

And Now, this 19th day of November, 2021, it is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 250—252 of the Pennsylvania Rules of Judicial Administration are amended and Rules 260—263 of the Pennsylvania Rules of Judicial Administration are adopted in the form as follows.

To the extent that notice of proposed rulemaking would otherwise be required by Pa.R.J.A. 103, the immediate promulgation of the amended and adopted rules is found to be in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2022.

### Annex A

#### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

##### CHAPTER 2. [ REASONABLE ACCOMMODATIONS UNDER TITLE II OF THE AMERICANS WITH DISABILITIES ACT ] DISABILITY AND LANGUAGE ACCESS DISABILITY ACCESS

#### Rule 250. Policy.

It is the policy of the Unified Judicial System (UJS) to prohibit discrimination against any individual with a disability, as defined by the Americans with Disabilities Act (“ADA”), [ 42 U.S.C. § 12131 ] 42 U.S.C. §§ 12131 et seq., in accessing or participating in judicial proceedings or other services, programs, or activities of the [ Unified Judicial System ] UJS.

#### Rule 251. Scope.

These rules shall apply to each UJS entity which includes, but is not limited to, all appellate courts, judicial districts, boards, committees, and agencies under the administrative authority of the Supreme Court. These rules relating to reasonable accommodations under Title II of the ADA do not supersede either the requirements of [ 42 Pa.C.S.A. § 4401 ] 42 Pa.C.S. §§ 4401 et seq., relating to Court Interpreters for Persons [ who are ] Who Are Deaf or Hard of Hearing, or the Administrative Regulations Governing [ Court Interpreters ] Language Access for Persons [ who are ] with Limited English Proficiency and for Persons Who Are Deaf or Hard of Hearing, 204 Pa. Code §§ 221.101 et seq.

**Official Note:** The Administrative Regulations Governing [ Court Interpreters ] Language Access for Persons [ who are ] with Limited English Profi-

ciency and for Persons Who Are Deaf or Hard of Hearing [ (204 Pa. Code § 101 et seq.) and 42 Pa.C.S.A. § 4401 et seq. ] (204 Pa. Code §§ 221.101 et seq.) and 42 Pa.C.S. §§ 4401 et seq. provide standards for court interpreters in judicial proceedings. “Judicial proceeding” is defined, in pertinent part, as “an ‘action,’ ‘appeal’ or ‘proceeding’ in any court of this Commonwealth.” 2 Pa.C.S. § 101. Title II of the ADA requires an interpreter for the deaf or hard of hearing for all programs, services, or activities of the UJS. See [ 42 U.S.C.A. ] 42 U.S.C. § 12132; 28 C.F.R. § 35.160.

#### Rule 252. Reasonable Accommodations.

A. Each UJS entity shall develop a written policy to receive and process requests for reasonable accommodations from individuals with disabilities. The policy shall be posted on the UJS website, each UJS entity’s respective website, and in each [ facility ] courthouse and office in the court system.

B. All policies developed must be substantially similar to the policy appended to this Rule (Appendix A) and shall contain, at a minimum, the following elements:

1. Appointment of an ADA coordinator—the coordinator must be identified on all court or program materials and the following information shall be provided: the coordinator’s name, work address, work fax number or e-mail address, and work telephone number.

2. Notice of the right to request free accommodation(s).

3. Explanation of the process for requesting accommodation(s).

4. [ Time line ] Timeline for request and response.

C. Each UJS entity shall develop a form substantially similar to the one appended to this rule (Appendix A) for processing requests for reasonable accommodations.

D. Each UJS entity shall adopt and publish a grievance procedure, substantially similar to the procedure appended to this rule (Appendix B), for requests that have been denied in whole or in part. Any denial of an accommodation request based upon undue burden or fundamental alteration to services and programs shall be put in writing by the head of the entity or his or her designee and shall provide specific reasons for the denial.

[ E. Within six (6) months of the adoption of this rule, each UJS entity shall provide the Administrative Office with a copy of their ADA policy and form and their grievance procedure and form as outlined in sections A—D above. ]

**Official Note:** In 2014, each UJS entity was required to provide the Administrative Office with a copy of their ADA policy and form and their grievance procedure and form, as outlined in sections A—D above.

(Editor’s Note: The following rules are added and printed in regular type to enhance readability.)

#### LANGUAGE ACCESS

#### Rule 260. Definitions.

“Court services, programs, and activities” mean services, programs, and activities, other than judicial proceedings, that are administered under the authority of the courts, i.e., provided by or contracted for by the court.

“Deaf or hard of hearing” (“DHH”) means a hearing loss or impairment of speech that creates an inability to understand or communicate the spoken English language.

“Direct victim” means an individual against whom a crime has been committed or attempted and who, as a direct result of the criminal act or attempt, suffers physical or mental injury, death, or the loss of earnings.

“Judicial proceeding” means an action, appeal, or proceeding in a court conducted by a presiding judicial officer, as defined for the purposes of these Rules.

“Language Access Plan” (“LAP”) means a plan adopted by the Supreme Court or by a judicial district, intended to fulfill the requirements of Pennsylvania and federal law relating to meaningful access to the Unified Judicial System of Pennsylvania (“UJS”).

“Limited English Proficient” (“LEP”) refers to individuals who do not speak English as their exclusive or primary language and who have a limited ability to read, speak, write, or understand English.

“Presiding judicial officer” includes justices, judges, magisterial district judges, and appointive judicial officers such as arbitrators and other like officers.

“Principal party in interest” means a person involved in a judicial proceeding who is a named party or a fiduciary for a named party; a direct victim in a criminal proceeding or a proceeding pursuant to the Juvenile Act (42 Pa.C.S. Ch. 63); or a parent, guardian, or custodian of a minor or incapacitated person who is a party, a direct victim in a criminal proceeding or a proceeding pursuant to 42 Pa.C.S. Ch. 63, or a witness.

“Vital documents” mean documents that contain or solicit information critical for obtaining access to the court, court services, and/or benefits, advise of rights or responsibilities, including the consequences of violating a court order, or are required by law.

#### Comment

See also 204 Pa. Code Ch. 221 (regulations relating to language access for persons with limited English proficiency and for persons who are deaf or hard of hearing). These terms are included here for convenience to aid in readily understanding the requirement of providing meaningful access under these Rules.

The definition of court services, programs, and activities encompasses those administered under the authority of the court, including, but not limited to, domestic relations, probation, *pro se* clinics, cases involving court-appointed counsel, or alternative dispute resolution.

Court services, programs, and activities provided by or contracted for by offices outside of the courts that have a distinct legal obligation to provide language access under Title VI of the Civil Rights Act of 1964 are not covered by these rules. Such offices include the Prothonotary, the Clerk of Courts, the Clerk of the Orphans’ Court, the District Attorney’s Office, and the Public Defender’s Office.

#### Rule 261. Policy.

A. It is the policy of the UJS to provide meaningful language access to the courts for all individuals who are Limited English Proficient (“LEP”) or deaf or hard of hearing (“DHH”) to ensure that such persons have due process and equal access to all judicial proceedings, court services, programs, and activities. Ensuring meaningful language access means providing timely, accurate, and effective language services at no cost to persons who are LEP or DHH, whether requested or not.

B. Courts must review data concerning the languages for which interpreters are most frequently requested in their courts and translate vital documents in accordance with the policy and procedures established by the Administrative Office. Oral translation of documents shall be provided when a translated document is not available.

C. A qualified interpreter shall be provided for any court services, programs, or activities involving an LEP person and in every judicial proceeding where the LEP person is one of the following:

1. a principal party in interest.
2. any person when a court finds good cause for provision of interpreter services.

D. A qualified interpreter shall be provided for any court services, programs, or activities involving a DHH person and in every judicial proceeding where the DHH person is one of the following:

1. a principal party in interest.
2. any person, including a spectator, who seeks a reasonable accommodation.

#### Comment

Equal access to the courts and effective communication in court proceedings is fundamental to the legitimacy of Pennsylvania’s system of justice and the public’s trust and confidence in the courts. Language services for individuals who are LEP or DHH are essential to ensure that they are able to fully participate in judicial proceedings and court services, programs, and activities in which their rights and interests are at stake. Moreover, the courts have an interest in ensuring the integrity of communications with LEP and DHH court users for the accurate presentation of evidence and the fair administration of justice.

The UJS is committed to ensuring meaningful access to LEP court users. Title VI of the Civil Rights Act of 1964 states that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d; see also Department of Justice regulations regarding implementation of Title VI at 28 C.F.R. § 42.101 *et seq.* (“Title VI” as used in these Rules refers collectively to the statute and its implementing regulations.)

In addition to federal law, the Pennsylvania Interpreter Act, Act 172 of 2006, requires the appointment of qualified interpreters for judicial proceedings. See 42 Pa.C.S. § 4412. Act 172 and its implementing regulations direct that interpretation must be in person, except in certain circumstances where telephone or video remote interpretation may be used. See 204 Pa. Code § 221.104 (relating to remote interpretation).

For persons who are DHH, meaningful access to the courts is required under 204 Pa. Code Ch. 221, section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, the Americans with Disabilities Act, 42 U.S.C. §§ 12131 *et seq.*, the Pennsylvania Interpreter Act, 42 Pa.C.S. §§ 4401 *et seq.*, and various regulations, 28 C.F.R. §§ 42.101 *et seq.* and 28 C.F.R. §§ 39.101 *et seq.*, implementing these laws.

Meaningful access to the courts also includes meaningful access to court programs, services, and activities that are administered under the authority of the courts. The providers of such programs may receive federal funding and, therefore, may be independently required under Title

VI to provide such access. In addition, there is an obligation to provide sign language interpreters and any other reasonable accommodations necessary to afford deaf and hard of hearing court users equally effective communications under the Americans with Disabilities Act, regardless of whether the vendor providing the program or service receives federal funds. A party who is LEP or DHH should not be required to participate in a program, service, or activity if the party is not able to fully participate or understand on account of language or disability. Courts should consider whether alternatives may be made available and, if not, whether a waiver of the required court program, service, or activity may be permitted.

Except in courtroom proceedings, effective communication with persons who are LEP or DHH can also be facilitated through the use of court staff who are proficient in languages other than English, in accordance with the Administrative Office's policy on bilingual employees.

**Rule 262. Scope.**

These Rules apply to every entity in the UJS, including appellate, trial, and magisterial district courts, as well as boards, committees, and offices under the administrative authority of the Supreme Court.

**Rule 263. Language Access Plans.**

A. The Court Administrator shall promulgate uniform standards for the provision of meaningful language and DHH access through the Language Access Plan ("UJS-LAP") for the UJS. The UJS-LAP shall address the early identification of the need for language or DHH services; provision of oral and written language services; maintenance of data on the need for and use of language access services; identification and translation of vital documents; and outreach and education. The UJS-LAP shall be posted on the UJS website. The UJS-LAP shall be evaluated and updated regularly.

B. The Court Administrator shall promulgate regulations to implement the Pennsylvania Interpreter Act.

C. Each judicial district shall promulgate local language access plans in conformity with a template to be provided by the Administrative Office. At a minimum, the following elements shall be included in those plans: identification of LEP court users; provision of interpreters in judicial proceedings; provision of language access to court services, programs, and activities; translation of vital documents in languages most frequently requested in their courts; and complaint procedures. Each judicial district shall review and update its language access plan to ensure that meaningful access is being provided to LEP and DHH individuals in the judicial district. Plans shall be posted on the UJS website and on the websites of the judicial districts.

**Comment**

On March 28, 2017, the Supreme Court approved the UJS-LAP providing a framework for the provision of meaningful language access for individuals who are LEP or DHH. The UJS-LAP specifies the language access requirements applicable to Pennsylvania courts and identifies steps that must be taken to fully implement language access requirements, including but not limited to:

Counsel, court staff, judges, quasi-judicial officers, and anyone aware of the need for an interpreter should notify the language access coordinator for the judicial district, or the court, of the person's need for language access services.

Courts must review data concerning the languages for which interpreters are most frequently requested in their courts and translate vital documents in accordance with the policy and procedures established by the Administrative Office. Oral translation of documents shall be provided when a translated document is not available.

The Administrative Office has developed and implemented protocols within the statewide case management systems for early identification of the need for language services, including a multilingual Notice of Language Rights form that is transmitted with hearing notices and subpoenas. Additionally, the Administrative Office has transmitted notices of the right to interpreter services for posting at courthouses and offices in the court system. The Administrative Office and the courts will continue to develop processes for documenting the need for language services as a case progresses through the UJS.

In instances when no request has been made, and a person's need for an interpreter is apparent, or the ability of a person to understand English is unclear, the presiding judicial officer shall, after conducting *voir dire*, make a determination of whether the person is LEP or DHH and, if so, require an interpreter for a judicial proceeding. A sample *voir dire* is in the "Judicial Bench Card for Working with Interpreters: Quick Reference Guide," available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>. Also posted on this page are the UJS-LAP, Pennsylvania Interpreter Act regulations, and the judicial districts' language access plans.

[Pa.B. Doc. No. 21-1979. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### [ 204 PA. CODE CH. 213 ]

#### Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania

In accordance with the Judicial Code, 42 Pa.C.S. § 4301(b), the following amendments to the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* have been approved by the Supreme Court.

These amendments shall be effective January 1, 2022. The changes to the policy are shown in bold and underline; deletions are shown in bold and brackets.

The entire policy, including these amendments and other related information, can be found on the Unified Judicial System's public records webpage located at <http://www.pacourts.us>.

Filed in the Administrative Office of Pennsylvania Courts on November 19, 2021.

GEOFF MOULTON,  
Court Administrator of Pennsylvania

## Annex A

## TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

## PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

## CHAPTER 213. COURT RECORDS POLICIES

## Subchapter C. ELECTRONIC CASE RECORD PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA

## § 213.71. Definitions.

## Section 1.00.

[ (a) ] **A.** “CPCMS” means the Common Pleas [ **Criminal Court** ] Case Management System.

[ (b) ] **B.** “Custodian” is the person, or designee, responsible for the safekeeping of electronic case records held by any court or office and for processing public requests for access to electronic case records.

[ (c) ] **C.** “Electronic Case Record” means information or data created, collected, received, produced, or maintained by a court or office in connection with a particular case that exists in the PACMS, CPCMS, **GTS**, or MDJS and that appears on web docket sheets or is provided in response to bulk distribution requests, regardless of format. This definition does not include images of documents filed with, received, produced, or maintained by a court or office which are stored in PACMS, CPCMS [ **or** ], **GTS**, MDJS [ **and** ], **or** any other automated system maintained by the Administrative Office of Pennsylvania Courts.

**D. “GTS” means the Guardianship Tracking System.**

[ (d) ] **E.** “MDJS” means the Magisterial District Judge [ **Automated** ] System.

[ (e) ] **F.** “Office” is any entity that is using one of the following automated systems: [ **Pennsylvania Appellate Court Case Management System (PACMS); Common Pleas Criminal Court Case Management System (CPCMS); or Magisterial District Judge Automated System (MDJS)** ] **PACMS; CPCMS; GTS; or MDJS.**

[ (f) ] **G.** “PACMS” means the Pennsylvania Appellate Court Case Management System.

[ (g) ] **H.** “Party” means one by or against whom a civil or criminal action is brought.

[ (h) ] **I.** “Public” includes any person, business, non-profit entity, organization, or association.

“Public” does not include:

(1) [ **Unified Judicial System** ] **UJS** officials or employees, including employees of the office of the clerk of courts, prothonotary, **the office of the clerk of the orphans’ court division**, and any other office performing similar functions;

(2) people or entities, private or governmental, who assist the [ **Unified Judicial System** ] **UJS** or related offices in providing court services; and

(3) any federal, state, or local governmental agency or an employee or official of such an agency when acting in his/her official capacity.

[ (i) ] **J.** “Public Access” means that the public may inspect and obtain electronic case records, except as provided by law or as set forth in this policy.

[ (j) ] **K.** “Request for Bulk Distribution of Electronic Case Records” means any request, regardless of the format the information is requested to be received in, for all or a subset of electronic case records.

[ (k) ] **L.** “UJS” means the Unified Judicial System of Pennsylvania.

[ (l) ] **M.** “Web Docket Sheets” are [ **internet available** ] **Internet-available** representations of data that have been entered into a [ **Unified Judicial System supported** ] **UJS-supported** case management system for the purpose of recording filings, subsequent actions and events on a court case, and miscellaneous docketed items.

## § 213.72. Statement of General Policy.

## Section 2.00.

[ (a) ] **A.** This policy covers all electronic case records.

[ (b) ] **B.** The public may inspect and obtain electronic case records, except as provided by law or as set forth in this policy.

[ (c) ] **C.** A court or office may not adopt for electronic case records a more restrictive access policy or provide greater access than that provided for in this policy.

## § 213.73. Electronic Case Record Information Excluded From Public Access.

## Section 3.00.

The following information in an electronic case record is not accessible by the public:

[ (1) **social security numbers** ] **A. Social Security Numbers;**

[ (2) **operator license numbers** ] **B. Driver License Numbers;**

[ (3) ] **C.** victim information, including name, address, and other contact information;

[ (4) ] **D.** informant information, including name, address, and other contact information;

[ (5) ] **E.** juror information, including name, address, and other contact information;

[ (6) ] **F.** a party’s street address, except the city, state, and ZIP code may be released;

[ (7) ] **G.** witness information, including name, address, and other contact information;

[ (8) ] **H. SID [ (state identification) numbers ] (State Identification) Numbers;**

[ (9) ] **I.** financial institution account numbers, credit card numbers, PINS or passwords used to secure accounts;

[ (10) ] **J.** notes, drafts, and work products related to court administration or any office that is the primary custodian of an electronic case record;

[ (11) ] **K.** information sealed or protected pursuant to court order;

[ (12) ] **L.** information to which access is otherwise restricted by federal law, state law, or state court rule;

[ (13) **information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice; and**

[ (14) ] **M.** information regarding arrest warrants and supporting affidavits until execution[ . ] ;

**N. information maintained in GTS, except aggregate, statistical, or other data that does not identify an incapacitated person, as determined by the Administrative Office of Pennsylvania Courts, may be released; and**

**O. information presenting a risk to personal security, personal privacy, or the fair, impartial, and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice.**

**§ 213.74. Requests for Bulk Distribution of Electronic Case Records.**

**Section 3.10.**

[ (a) ] **A.** To the extent that adequate resources and technical capabilities exist, a request for bulk distribution of electronic case records shall be permitted for data that is not excluded from public access as set forth in this policy.

[ (b) ] **B.** To the extent that adequate resources and technical capabilities exist, a request for bulk distribution of electronic case records not publicly accessible under § 213.73 of this Policy may be fulfilled where: the information released does not identify specific individuals; the release of the information will not present a risk to personal security or privacy; and the information is being requested for a scholarly, journalistic, governmental-related, research, or case preparation purpose.

(1) Requests of this type will be reviewed on a case-by-case basis.

(2) In addition to the request form, the requestor shall submit in writing:

[ (i) ] **a.** the purpose/reason for the request;

[ (ii) ] **b.** identification of the information sought;

[ (iii) ] **c.** explanation of the steps that the requestor will take to ensure that the information provided will be secure and protected;

[ (iv) ] **d.** certification that the information will not be used, except for the stated purposes; and

[ (v) ] **e.** whether [ **IRB** ] **relevant Institutional Review Board** approval has been received, if applicable.

**§ 213.75. Requests for Electronic Case Record Information from Another Court or Office.**

**Section 3.20.**

Any request for electronic case record information from another court **or office** should be referred to the proper record custodian in the court or office where the electronic case record information originated. Any request for electronic case record information concerning multiple magisterial district judge courts or judicial districts should be referred to the Administrative Office of the Pennsylvania Courts.

**§ 213.76. Responding to a Request for Access to Electronic Case Records.**

**Section 4.00.**

[ (a) ] **A.** Within 10 business days of receipt of a written request for electronic case record access, the respective court or office shall respond in one of the following manners:

(1) fulfill the request, or if there are applicable fees and costs that must be paid by the requestor, notify **the** requestor that the information is available upon payment of the same;

(2) notify the requestor in writing that the requestor has not complied with the provisions of this policy;

(3) notify the requestor in writing that the information cannot be provided; or

(4) notify the requestor in writing that the request has been received and the expected date that the information will be available. If the information will not be available within 30 business days, the court or office shall notify the Administrative Office of Pennsylvania Courts and the requestor simultaneously.

[ (b) ] **B.** If the court or office cannot respond to the request as set forth in subsection (a), the court or office shall concurrently give written notice of the same to the requestor and Administrative Office of Pennsylvania Courts.

**§ 213.77. Fees.**

**Section 5.00.**

[ (a) ] **A.** Reasonable fees may be imposed for providing public access to electronic case records pursuant to this policy.

[ (b) ] **B.** A fee schedule shall be in writing and publicly posted.

[ (c) ] **C.** A fee schedule in any judicial district, including any changes thereto, shall not become effective and enforceable until:

(1) a copy of the proposed fee schedule is submitted by the president judge to the Administrative Office of Pennsylvania Courts; and

(2) the Administrative Office of Pennsylvania Courts has approved the proposed fee schedule.

**§ 213.78. Correcting Data Errors.**

**Section 6.00.**

[ (a) ] **A.** A party to a case, or the party's attorney, seeking to correct a data error in an electronic case record shall submit a written request for correction to the court in which the record was filed.

[ (b) ] **B.** A request to correct an alleged error contained in an electronic case record of the Supreme Court, Superior Court, or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court.

[ (c) ] **C.** A request to correct an alleged error contained in an electronic case record of the Court of Common Pleas, Philadelphia Municipal Court, or a Magisterial District Court shall be submitted and processed as set forth below.

(1) The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.

(2) The request shall be submitted to the clerk of courts if the alleged error appears in an electronic case record of the Court of Common Pleas or Philadelphia Municipal Court. **If the alleged error appears in an electronic case record regarding a guardianship case, the request for correction shall be submitted to the clerk of the orphans' court division.** The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator, and the Administrative Office of Pennsylvania Courts.

(3) The request shall be submitted to the Magisterial District Court if the alleged error appears in an electronic case record of the Magisterial District Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator, and the Administrative Office of Pennsylvania Courts.

(4) The requestor shall set forth on the request form with specificity the information that is alleged to be in error and shall provide sufficient facts, including supporting documentation that corroborates the requestor's contention that the information in question is in error.

(5) Within 10 business days of receipt of a request, the clerk of courts, **clerk of the orphans' court division**, or Magisterial District Court shall respond in writing to the requestor, all parties to the case, and **the** Administrative Office of Pennsylvania Courts, in one of the following manners:

[ (i) ] **a.** the request does not contain sufficient information and facts to adequately determine what information is alleged to be error; accordingly, the request form is being returned to the requestor; and no further action will be taken on this matter unless the requestor resubmits the request with additional information and facts.

[ (ii) ] **b.** the request does not concern an electronic case record that is covered by this policy; accordingly, the request form is being returned to the requestor; no further action will be taken on this matter.

[ (iii) ] **c.** it has been determined that an error does exist in the electronic case record and that the information in question has been corrected.

[ (iv) ] **d.** it has been determined that an error does not exist in the electronic case record.

[ (v) ] **e.** the request has been received and an additional period not exceeding 30 business days is necessary to complete the review of this matter.

(6) A requestor has the right to seek review of a final decision under subsection 5(i)—(iv) rendered by a clerk of courts, **clerk of the orphans' court division**, or [ **a** ] Magisterial District Court within 10 business days of notification of that decision.

[ (i) ] **a.** The request for review shall be submitted to the District Court Administrator on a form that is designed and published by the Administrative Office of Pennsylvania Courts.

[ (ii) ] **b.** If the request for review concerns a Magisterial District Court's decision, it shall be reviewed by the judge assigned by the President Judge.

[ (iii) ] **c.** If the request for review concerns a **decision of a clerk of [ courts' decision ] courts or a clerk of the orphans' court division**, it shall be reviewed by the judge who presided over the case from which the electronic case record alleged to be in error was derived.

#### § 213.79. Continuous Availability of Policy.

##### Section 7.00.

A copy of this policy shall be continuously available for public access in every court or office that is using [ **the** ] PACMS, CPCMS, [ **and/or** ] **GTS**, or MDJS.

#### EXPLANATORY REPORT

##### Amendments to the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania

Effective January 1, 2022, upon the recommendation of the Administrative Office of Pennsylvania Courts, the Court amended Sections 1.00, 3.00, 3.10, 6.00, and 7.00 of the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania (ECR Policy)* to incorporate electronic case record information residing in the Guardianship Tracking System (GTS). GTS is a statewide application for courts to manage guardianship

cases and track guardian compliance with annual reporting, and an online means of filing required reports by Pennsylvania guardians. The amendments are detailed below.

Section 1.00 has been amended to include a definition for GTS. The definitions for "electronic case records" and "office" were also amended to include GTS. In addition, the office of the clerk of the orphans' court division has been added to the list of entities that are not included in the definition of "public."

Section 3.00 has been amended to provide that information maintained in GTS is not accessible by the public, except for aggregate, statistical, and/or other data that does not identify an incapacitated person, as determined by AOPC. Information that would be accessible under the *ECR Policy* includes, for example: the name of guardians, whether a guardian has been paid, and when a guardian is terminated. The release of aggregate, statistical data that does not identify incapacitated persons reflects the general philosophy that detailed information in these sensitive cases should be safeguarded, while reinforcing the Judiciary's commitment to open and accessible case records. See also the provisions in the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania (Case Records Policy)* regarding individual cases. Given the extensive financial, medical, and related sensitive information provided to a court in guardianship matters, these records are generally inaccessible pursuant to the *Case Records Policy* and other relevant legal authority. See, e.g., 20 Pa.C.S. § 5511(a) and *In re Estate of DuPont*, 2 A.3d 516 (Pa. 2010) (Proceedings related to the appointment of guardianship for incapacitated persons shall be closed to the public upon request of the alleged incapacitated person or his/her counsel). The amendments also include a reorganization of Section 3.00 for clarity.

The abbreviation of "IRB" appearing in Section 3.10(B)(2)(e) was replaced with "relevant Institutional Review Board."

Section 6.00(C) has been amended to clarify that requests to correct an alleged error in an electronic case record in GTS must be submitted to, and responded to by, the clerk of the orphans' court division. When the *ECR Policy* was originally implemented in 2007, the "Commentary" to Section 6.00 provided in part:

An important aspect of transparent electronic case records and personal privacy/security is the quality of information in the court record. The information in the UJS electronic case records should be complete and accurate, otherwise incorrect information about a party to a case or court proceeding could be disseminated. . . .

The power of the court to correct errors in its own records is inherent. Equity enjoys flexibility to correct **court errors** [emphasis added] that would produce unfair results. . . .

. . . [T]his section permits a party to "fix" information that appears in an electronic case record which does not, for one reason or another, correctly set forth the facts contained in the official court record. . . .

It is anticipated that those reviewing alleged errors [will] compare the information set forth in the electronic case record against official court record. If the information in the electronic case record and official court record is consistent, the request to correct the electronic case record should be denied. If the information is not consistent, the reviewer should determine, what, if any, corrections are needed to the electronic case record.

Reports and inventories filed by the guardian with the court, even when containing errors, are a part of the court's official record. A party cannot use Section 6.00 to amend a party-filed document with the court which is a part of the court's official record.

"Court errors", such as data entry mistakes made by a member of the court staff which are readily apparent when reviewing the information in the electronic case record with the information residing in the court's official record, are the focus of Section 6.00. When such an error is alleged by a party or party's attorney, a review of the official record is necessary. Hence, the proper entity to perform a review of an error in GTS is the clerk of the orphans' court division that maintains the official court record.

In addition, Section 7.00 has been amended to include that a copy of the *ECR Policy* shall be continuously available for public access in every court or office using GTS.

[Pa.B. Doc. No. 21-1980. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[ 204 PA. CODE CH. 221 ]

#### Court Interpreters for Persons with Limited English Proficiency and for Persons Who Are Deaf or Hard of Hearing

Under 42 Pa.C.S. §§ 4411 and 4431, the Court Administrator is required to promulgate guidelines pertaining to the selection and use of qualified interpreters for persons with limited English proficiency and persons who are deaf or hard of hearing in all court proceedings within the Unified Judicial System.

In accordance therewith, 204 Pa. Code § 221 is hereby amended in the following form and is effective January 1, 2022. The regulations can be found on the language access and interpreter program webpage located at <http://www.pacourts.us/judicial-administration/court-programs/language-access-and-interpreter-program>.

Filed in the Administrative Office of Pennsylvania Courts on November 22, 2021.

GEOFF MOULTON,  
*Court Administrator of Pennsylvania*

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 221. [ COURT INTERPRETERS ] LANGUAGE ACCESS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY AND FOR PERSONS WHO ARE DEAF OR HARD OF HEARING

##### Subchapter 1. GENERAL PROVISIONS

#### § 101. Scope.

These regulations are enacted under the Language Access Plan for the Unified Judicial System (UJS-LAP) and 42 Pa.C.S. §§ 4411 and 4431 (relating to

duties of Court Administrator) and shall govern the appointment and use of interpreters for persons with limited English proficiency and persons who are deaf or hard of hearing in all court proceedings within the Unified Judicial System (UJS).

#### Comment

See also Rules 250—252 and 260—263 of the Pennsylvania Rules of Judicial Administration regarding disability and language access.

#### § 102. Definitions.

For purposes of these regulations:

(a) *Appellate Court Prothonotary* means the prothonotary responsible for the appellate court in which the judicial proceeding is conducted or his or her designee.

(b) *Certified Interpreter* means a person who is certified in accordance with [ **the guidelines established by the Court Administrator for the certification and appointment of interpreters** ] **this chapter**.

(c) *Court Administrator* means the Court Administrator of Pennsylvania.

(d) *Deaf or hard of hearing* means [ **an impairment of hearing or speech which** ] **a hearing loss or impairment of speech that** creates an inability to understand or communicate the spoken English language.

(e) *Direct victim* means an individual against whom a crime has been committed or attempted **and who, as a direct result of the criminal act or attempt, suffers physical or mental injury, death, or the loss of earnings.**

(f) *District Court Administrator* means the court administrator responsible for the administration of the courts of the judicial district in which the judicial proceeding is conducted or his or her designee.

(g) *Immediate family member* means a person other than a principal party in interest who is a spouse, child, parent, grandparent, or guardian of a principal party in interest.

(h) *Interpret* means either:

(1) within the context of court interpreters for persons with limited English proficiency, to convey spoken and written English into the language of the person with limited English proficiency and to convey spoken and written statements by that person into spoken English; or

(2) within the context of court interpreters for persons who are deaf or hard of hearing, to convey spoken English in a manner understood by the deaf or hard of hearing person through, but not limited to, American Sign Language and transliteration or any other process, procedure, or means of communication used to convey the communications made by the deaf or hard of hearing person into spoken English.

(i) *Interpreter* includes both a certified interpreter and an otherwise qualified interpreter for persons with limited English proficiency and the deaf or hard of hearing.

(j) *Judicial proceeding* means an action, appeal, or proceeding in any court of the Commonwealth of Pennsylvania [ **and includes any proceeding** ] conducted by a presiding judicial officer as defined by [ § 102(n) ] **subsection (o)**.

(k) *Notice of Language Rights* means a **multilingual written notice that informs an individual of the right to an interpreter at no cost and how to request an interpreter.**

[ (k) ] **(l)** *Otherwise qualified interpreter* means a person who meets the pertinent requirements of **[ the guidelines established by the Court Administrator for qualification and appointment of interpreters ] this chapter. As with certified interpreters, otherwise qualified interpreters should be chosen from AOPC's Interpreter Certification Program (ICP) roster.**

[ (l) ] **(m)** *Person who is deaf or hard of hearing* means a principal party in interest or a witness who is deaf **or hard of hearing**.

[ (m) ] **(n)** *Person with limited English proficiency* means a principal party in interest or a witness who speaks exclusively or primarily a language other than English and is unable to sufficiently speak and understand English so as to fully participate and be understood in a judicial proceeding.

[ (n) ] **(o)** *Presiding judicial officer* includes justices, judges, magisterial district judges, and appointive judicial officers, such as arbitrators**[ , masters ]** and other like officers.

[ (o) ] **(p)** *Principal party in interest* means a person involved in a judicial proceeding who is:

- (1) a named party or a fiduciary for a named party;
- (2) a direct victim in a criminal proceeding or a proceeding pursuant to **the Juvenile Act**, 42 Pa.C.S. Ch. 63 (relating to juvenile matters);
- (3) a parent, guardian, or custodian of a minor or incapacitated person who is:
  - (i) a party;
  - (ii) a direct victim in a criminal proceeding or a proceeding pursuant to 42 Pa.C.S. Ch. 63; or
  - (iii) a witness.

[ (p) ] **(q)** *Roster* means the list of certified and otherwise qualified interpreters maintained and distributed by the Court Administrator.

[ (q) ] **(r)** *Staff Interpreter* means a certified **[ or otherwise qualified ]** interpreter who is an employee of the appellate court or judicial district and whose duties include providing services as an interpreter and functions related to interpreting.

[ (r) ] **(s)** *Transliteration* means to convey spoken or written English in an English-based sign **language** system **[ and the process of conveying an English-based sign system in spoken or written English ]**.

[ (s) ] **(t)** *Witness* means a person who testifies in a judicial proceeding.

#### Comment

**The Administrative Office of Pennsylvania Courts' (AOPC) Interpreter Certification Program roster is available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>.**

The definition of "Certified Interpreter" set forth in subsection (b) contains the requirement that the interpreter be certified by the Court Administrator. An interpreter who is certified pursuant to another jurisdiction or organization's policies is **[ nonetheless ]** not a certified interpreter under these regulations if that individual has

not been certified by the Court Administrator. Therefore, persons charged with applying these regulations should take care to confirm that an interpreter who purports to be certified has, in fact, been certified by the Court Administrator. **[ A "Staff Interpreter" pursuant to subsection (q) is a full-time employee of the appellate court or judicial district whose duties include providing interpretation services. Persons employed as staff interpreters—even those employed as such on or before the date of the enactment of these regulations—will be required to be certified in their language of expertise by the Court Administrator in order to attain certified status under these regulations, if such certification is available. ]**

**A "Staff Interpreter" pursuant to subsection (r) is a full-time employee of an appellate court or judicial district whose duties include providing interpretation services. Persons employed as staff interpreters are required to be certified in their language of expertise by the Court Administrator in order to attain certified status under these regulations, if such certification is available.**

**References related to transliterators can be found in Schedule F (Pennsylvania Rules of Professional Conduct for Judiciary Interpreters.) Oral transliteration means conveying spoken English by using speech reading and not sign language. Please note that it differs from "transliteration," as defined above, in that it does not use sign language.**

These regulations are not intended to restrict a deaf or hard of hearing person's ability pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, to request a process, procedure, or means of communication other than an interpreter. Under the ADA and its regulations, a deaf or hard of hearing person may request a specific auxiliary aid and the public entity must give primary consideration to that choice unless another effective means of communication exists or it can demonstrate that doing so would fundamentally alter the nature of the service, program or activity or result in undue financial hardship. 28 C.F.R. §§ 35.160[ ; ], 35.164; 28 C.F.R. Pt. 35, App. A.

See 42 Pa.C.S. § 6302, defining "custodian" as "[a] person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court." See also **[ Pa.R.C.P. ] Pa.R.Civ.P.** 76, which defines fiduciaries to include "an executor, administrator, guardian, committee, receiver, trustee, assignee for the benefit of creditors, and any other person, association, partnership, or corporation, acting in any similar capacity." **[ Pa.R.C.P. ] Pa.R.Civ.P.** 2051 defines "incapacitated person" to include "an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that the person is partially or totally unable to manage financial resources or to meet the essential requirements for physical health and safety."

#### § 103. Confidentiality of Communications.

As provided in 42 Pa.C.S. §§ 4415 and 4436 **(relating to confidential communications in presence of court interpreter)**, an interpreter appointed pursuant to these regulations shall not be permitted or compelled to testify in any judicial proceeding as to any interpreted statements made by the person for whom he or she is interpreting when that person is engaged in a confiden-



tial communication as provided by any statute or general rule, including, but not limited to:

(a) 42 Pa.C.S. § 5916 (relating to confidential communications to attorney);

(b) 42 Pa.C.S. § 5928 (relating to confidential communications to attorney);

(c) 42 Pa.C.S. § 5942 (relating to confidential communications to news reporters);

(d) 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen);

(e) 42 Pa.C.S. § 5944 (relating to confidential communications to psychiatrists or licensed psychologists);

(f) 42 Pa.C.S. § 5945 (relating to confidential communications to school personnel);

(g) 42 Pa.C.S. § 5945.1 (relating to confidential communications with sexual assault counselors);

(h) 42 Pa.C.S. § 5945.2 (relating to confidential communications to crime stopper or similar anticrime program); [ and ]

**(i) 42 Pa.C.S. § 5945.3 (relating to confidential communications to human trafficking caseworkers); and**

[ (i) ] **(j) 23 Pa.C.S. § 6116 (relating to confidential communications to domestic violence counsel/advocates).**

#### § 104. Remote Interpretation.

(a) Simultaneous audiovisual technology.—In the event that a certified or otherwise qualified interpreter for persons with limited English proficiency or who are deaf or hard of hearing cannot be found to interpret in person, one may be appointed to interpret via remote technology allowing for two-way simultaneous communication of image and sound, such as **video remote interpreting (VRI)**, video-conferencing, closed-circuit television, or web-based camera, provided that the judicial proceeding[ : ] is expected to be no more than [ **30 minutes** ] **one hour** in duration[ ; is non-evidentiary; and does not involve more than one interpreter ]. **Priority should be given to interpreters from AOPC's Interpreter Certification Program (ICP) roster.** Prior to utilizing the interpreter, the court must conduct a *voir dire* to determine his or her qualifications, unless the interpreter **is a certified interpreter from AOPC's ICP roster or** has been previously used by, and his or her qualifications are known to, the court. **The use of VRI should follow guidance issued by the AOPC.**

(b) Telephonic interpretation.—If neither a certified nor otherwise qualified interpreter can be found to interpret in person or by remote technology allowing for two-way simultaneous communication of image and sound, one may be appointed to interpret remotely via telephone, provided the judicial proceeding[ : ] is expected to be **short, lasting** no more than 30 minutes [ **in duration; is non-evidentiary; and does not involve more than one interpreter** ]. **Priority should be given to interpreters from AOPC's Interpreter Certification Program (ICP) roster.** If neither a certified nor otherwise qualified interpreter can be found to interpret via telephone, the court may utilize a telephone interpreter provided by a commercial telephone interpreter service. Prior to utilizing any telephonic interpreter, the court must conduct a *voir dire* to determine his or her qualifications, unless the interpreter has been previously used by, and his or her qualifications are known to, the court.

(c) Exceptions.—Preliminary arraignments pursuant to Rule of Criminal Procedure 540 and proceedings for emergency orders under the Protection from Abuse Act [ **(23 Pa.C.S. § 6101 et seq.)** ] [ **(23 Pa.C.S. §§ 6101 et seq.), the Protection of Victims of Sexual Violence or Intimidation Act (42 Pa.C.S. §§ 62A01 et seq.),** and the Older Adults Protective Services Act [ **(35 P.S. § 10225.101 et seq.)** ] [ **(35 P.S. §§ 10225.101 et seq.)** ] may be conducted via remote technology without regard to subsections (a) and (b) above, except that a *voir dire* still must be conducted to determine the interpreter's qualifications, unless the interpreter **is a certified interpreter from AOPC's ICP roster or** has been previously used by, and his or her qualifications are known to, the court.

#### Comment

Although this regulation allows for remote interpretation [ **under certain limited circumstances** ], interpretation in person is strongly preferred. Pursuant to subsections (a) and (b), if an interpreter [ **can not** ] **cannot** be found to interpret in person, the next step should be to find one to interpret via remote means that allow for two-way simultaneous communication of image and sound. It is only after determining that an interpreter cannot be found to interpret via two-way simultaneous communication of image and sound that the court should consider an audio-only device, such as a telephone.

**Moreover, courts should be cautious in their use of video remote platforms (such as Zoom and Microsoft Teams) to facilitate virtual hearings. When using remote platforms, courts should follow guidance issued by the AOPC, use interpreters from AOPC's ICP roster, do a practice run using the remote platform in advance of the hearing and, if unable to secure a rostered interpreter for the proceeding, voir dire the interpreter to ascertain his or her qualifications.**

#### § 105. Waiver of Interpreter.

(a) Waiver by a **principal party in interest.**—A **principal party in interest** with limited English proficiency or [ **party** ] who is deaf or hard of hearing may waive the right to an interpreter, provided the waiver is conducted in the presence of the presiding judicial officer and the party seeking to waive is represented by counsel or has knowingly waived the right to counsel. The presiding judicial officer shall ascertain from the **principal party in interest** with limited English proficiency or [ **party** ] who is deaf or hard of hearing whether the waiver is knowing, voluntary and intelligent **and that the waiver will not impede the party's communication with the court and the fact finder.** If the judicial proceeding is conducted in a court of record, the foregoing determination shall be made on the record. The **principal party in interest** with limited English proficiency or [ **party** ] who is deaf or hard of hearing must be provided with an interpreter during the waiver process. In addition, the waiver shall be in writing signed by the **principal party in interest** with limited English proficiency or [ **party** ] who is deaf or hard of hearing, with a representation that the party was told of the right to an interpreter and that the party chose not to have an interpreter at the judicial proceeding. The written waiver shall be on the form provided by the Court Administrator for this purpose and shall be made part of the record of the judicial proceeding. **If the presiding judicial officer subsequently determines that an interpreter is necessary, he or**

**she shall proceed pursuant to § 204(b) (relating to determination of need for interpreter).**

(b) Waiver by a non-party.—When a non-party who is entitled to an interpreter under these regulations seeks to waive the right to an interpreter, the provisions of subsection (a) above should be followed, with the exception that counsel need not be present.

**Comment**

When persons with limited English proficiency or [ **persons** ] who are deaf or hard of hearing waive their right to an interpreter pursuant to § 105, they are divesting themselves of an important due process safeguard. For this reason, the presiding judicial officer should take great care to ensure that the person's waiver is knowing, voluntary, and intelligent. When deciding whether to permit a waiver, the presiding judicial officer should consider not only the needs of the person with limited English proficiency or [ **person** ] who is deaf or hard of hearing but also the needs of the presiding judicial officer and others involved in the proceedings to accurately understand that person. **In the case of persons with limited English proficiency or who are deaf or hard of hearing who are witnesses, the presiding judicial officer should primarily consider the need for the finder of fact to accurately understand the witness and whether a principal party in interest wants an interpreter present to ensure the accuracy of the testimony rather than the preference of the witness.** If the presiding judicial officer feels that the interpreter is necessary for the presiding judicial officer or others involved in the proceedings to accurately understand the person with limited English proficiency or [ **person** ] who is deaf or hard of hearing, the waiver request should be denied. **Waiver forms are available on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.**

**§ 106. Oath for Interpreters.**

Before commencement of interpreter duties, an interpreter shall take the following oath:

Do you solemnly swear or affirm that you will make an accurate, complete, and impartial interpretation from the English language into the (target language), and vice-versa, of all communication during this proceeding using your best skill, judgment, and ability and that you will abide by the Rules of Professional Conduct for Judiciary Interpreters, and so you do swear or affirm?

Once the oath is administered, the interpreter becomes an officer of the court for the duration of his or her appointment.

**Comment**

**See Pa.R.E. 604 (Interpreter qualifications and oaths).**

**§ 107. Cost of Providing Interpreters for Persons with Limited English Proficiency.**

(a) *General rule.*—An interpreter appointed pursuant to § [ **203** ] **205 (relating to appointment of interpreters)** for a principal party in interest or a witness is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses by the county of the court or the appellate court that has jurisdiction over the judicial proceeding in accordance with the compensation schedule approved by the Court Administrator pursuant to 42 Pa.C.S. § 4411(d). In no

event shall the costs of providing interpreter services be the responsibility of the person who is limited English proficient (**LEP**).

(b) *Assignment of costs.*—In those cases where appointment of an interpreter is discretionary as specified in [ **section 203(d)** ] **§ 205(d)** regarding appointment of interpreters for immediate family members, the presiding judicial officer may order reimbursement by the family member to the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed for its responsibilities under this chapter. In determining the amount of actual and reasonable expenses to be paid to the interpreter, the presiding judicial officer shall follow the fee schedule for interpreters established by the Court Administrator.

**Comment**

**[ The compensation schedule referred to in subsection (a) will be published in the *Pennsylvania Bulletin* and the official web site of the Administrative Office of Pennsylvania Courts and will be subject to periodic review. In a judicial district comprised of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose. ]**

**A copy of the interpreter fee schedule for onsite, video, and telephonic interpreting can be found in Schedule G and on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.**

**In a judicial district comprised of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.**

**§ 108. Costs of Providing Interpreters for Persons who are Deaf or Hard of Hearing.**

[ (a) ] *General rule.*—[ **Except as provided in subsection (b), a** ] **An** interpreter appointed in accordance with [ **§ 203** ] **§ 205** is entitled to a reasonable fee for his or her services and shall be reimbursed for actual and reasonable expenses by the county of the court that has jurisdiction over the judicial proceeding in accordance with the compensation schedule approved by the Court Administrator pursuant to 42 Pa.C.S. § 4431(d). [ **Except as provided in subsection (b), expenses** ] **Expenses** related to interpreters appointed for appellate judicial proceedings shall be the responsibility of the appellate court. In no event shall the cost of providing interpreter services be the responsibility of the person who is deaf or hard of hearing.

[ (b) ] *Payment determination of costs related to appointment of interpreters for immediate family members.*—Disposition of all or part of the cost of providing an interpreter appointed in accordance with § 203(d) (interpreter for immediate family members) shall be in the discretion of the court that has jurisdiction over the judicial proceeding and in accordance with the compensation schedule approved by the Court Administrator. **If the principal party in interest is indigent, the cost of providing interpreter services shall be the responsibility of the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed. The presiding judicial officer may order reimbursement to**

the county or the appellate court for its responsibilities under this chapter. In no event shall the cost of providing interpreter services be the responsibility of the person who is deaf or hard of hearing. ]

#### Comment

[ The compensation schedule referred to in subsection (a) will be published in the *Pennsylvania Bulletin* and the official website of the Administrative Office of Pennsylvania Courts and will be subject to periodic review. In a judicial district composed of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

Subsection (b) is designed to give the court discretion in assessing the costs of providing an interpreter for immediate family members pursuant to § 203(d). This discretion, however, should never extend to requiring the person who is deaf or hard of hearing to pay the cost of the interpreter. ]

A copy of the interpreter fee schedule for onsite, video, and telephonic interpreting can be found in Schedule G and on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.

In a judicial district composed of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

#### Subchapter 2. PROCEDURES FOR NOTIFICATION AND DETERMINATION OF THE NEED FOR, AND FOR THE PROCUREMENT AND APPOINTMENT OF, INTERPRETERS

[ § 201. Notice of Need for Interpreter; Procurement of Certified and Otherwise Qualified Interpreters.

(a) Persons required to give notice; persons to whom notice is to be given; timing of notice.—

(1) If a principal party in interest is a person with limited English proficiency or a person who is deaf or hard of hearing and is in need of an interpreter, either the principal party in interest or his or her attorney shall give notice of the need for an interpreter as soon as is practicable after learning of the need. The notice shall be made to the presiding judicial officer or the Appellate Court Prothonotary/District Court Administrator or his or her designee and contain the information required in subsection (b)(2) of this regulation.

(2) If the person with limited English proficiency or person who is deaf or hard of hearing is a witness, notice of the need for an interpreter shall be given by the party that intends to call the person as a witness as soon as is practicable after learning of the need. The notice shall be made to the presiding judicial officer or the Appellate Court Prothonotary/District Court Administrator or his or her designee and contain the information required in subsection (b)(2) of this regulation.

(3) If the person with limited English proficiency or person who is deaf or hard of hearing is a direct victim, notice of the need for an interpreter shall be given by the Commonwealth as soon as is practicable after learning of the need. The notice shall be made to the presiding judicial officer or the Appel-

late Court Prothonotary/District Court Administrator or his or her designee and contain the information required in subsection (b)(2) of this regulation.

(4) In addition to the foregoing persons, anyone with knowledge of a principal party in interest, witness or direct victim's need for an interpreter may give notice of that need to the presiding judicial officer or the Appellate Court Prothonotary/District Court Administrator or his or her designee and contain the information required in subsection (b)(2) of this regulation.

(b) Form and content of notice.—

(1) Notice form.—The notice of need for an interpreter should be given on the form provided by the Court Administrator for this purpose, if practicable. If notice by way of said form is not practicable, written or oral notice may be given provided it contains the information set forth in subsection (b)(2) below.

(2) Content of notice.—The notice of need for an interpreter, whether on the form specified in subsection (b)(1) or otherwise, must contain at minimum the following information:

(i) party and case identifying information; and

(ii) for a person with limited English proficiency, the language spoken (specifying any particular dialect or regional version) and the country of origin; or

(iii) for a person who is deaf or hard of hearing, the type of sign language or method of communication used, the country of origin (if a foreign sign language is used to communicate), and a description of any educational, physical, mental or other particular condition which may limit the person's ability to communicate.

(c) Procurement of certified or otherwise qualified interpreters.—

(1) Once the Appellate Court Prothonotary/District Court Administrator or his or her designee is made aware of the need for an interpreter, he or she shall procure a certified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of certified interpreters.

(2) If the Appellate Court Prothonotary/District Court Administrator or his or her designee cannot procure a certified interpreter in the manner set forth in subsection (c)(1) above, he or she shall procure an otherwise qualified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters.

#### Comment

Subsection (a) requires that notice be given as soon as practicable after learning of the need. The fact that no specific time limit is given is in recognition of the fact that situations may arise in which significant advance notice is not feasible. Nevertheless, the party responsible for giving notice under these regulations or anyone aware of the need must notify the presiding judicial officer or Appellate Court Prothonotary/District Court Administrator or his or her designee as soon as the need for an interpreter is known so as to avoid unnecessary delay.

Subsection (b)(1) makes clear that notice on the form provided by the Court Administrator is the preferred method of providing notice of need for an interpreter. If use of the Court Administrator's form is not practicable, other written or oral notice is acceptable provided it conveys the information set forth in subsection (b)(2).

The regulations do not require that only one person be designated by the District Court Administrator to handle requests for interpreters in the district. Different individuals can be assigned to handle different courts within the district. For example, the designee for common pleas interpreter requests may be the District Court Administrator while for cases in the magisterial district courts the special or minor courts administrator could be designated.

In the case of a deaf or hard of hearing juror, the District Court Administrator or his or her designee should follow the judicial district's existing policies pursuant to the Americans With Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 *et seq.*, to ensure proper accommodation of a deaf or hard of hearing juror. Juror summonses and/or questionnaires should advise prospective jurors to give notice of need for an accommodation prior to the date they report for jury duty.

Subsection (c)(1) requires the Appellate Court Prothonotary/District Court Administrator or his or her designee to follow the Court Administrator's guidelines for appointing a certified interpreter and to make the necessary arrangements to secure the interpreter's services for the judicial proceeding if one is found. If a certified interpreter cannot be found, subsection (c)(2) requires the Appellate Court Prothonotary/District Court Administrator or his or her designee to obtain an otherwise qualified interpreter in the manner provided in the Court Administrator's guidelines. In procuring either a certified or otherwise qualified interpreter, and when the person requiring the interpreter is a person with limited English proficiency, the Appellate Court Prothonotary/District Court Administrator or his or her designee may obtain the services of an interpreter to interpret remotely subject to the limitations of § 104. In the event that neither a certified nor an otherwise qualified interpreter can be procured, the Appellate Court Prothonotary/District Court Administrator or his or her designee shall contact the Court Administrator's office for guidance.

#### § 202. Determination of Need for Interpreter.

(a) Proceedings to determine need for an interpreter.—If, after considering the notice of need, the presiding judicial officer requires additional information in order to make the determination, he or she may request any additional filings from the parties or conduct any proceedings he or she deems necessary including, but not limited to, conducting the *voir dire* for determination of need for an interpreter for persons with limited English proficiency established by the Court Administrator. If the Appellate Court Prothonotary/District Court Administrator or his or her designee requires additional information, he or she may request additional information and may request that the presiding judicial officer conduct proceedings to determine the need for an interpreter.

(b) If, during the course of the judicial proceedings, and without regard to whether notice of need for an interpreter was given, the presiding judicial officer determines that a principal party in interest, witness, or direct victim is a person with limited English proficiency or that a principal party in interest, witness, direct victim or juror is deaf or hard of hearing and is in need of an interpreter, he or she shall give notice to the Appellate Court Prothonotary/District Court Administrator or his or her designee as provided in subsection (b) of this regulation.

#### Comment

Subsection (a) covers situations where the person notified of need for an interpreter pursuant to § 201 requires additional information. It also allows the presiding judicial officer to acquire additional information in order to make the determination of need by way of supplemental filings, hearings and any other means typically within the presiding judicial officer's power in handling the particular judicial proceeding and, in the case of persons with limited English proficiency, suggests using the *voir dire* established by the Court Administrator for assessing the level of English proficiency of the individual in question. The Appellate Court Prothonotary/District Court Administrator may request additional information but is not empowered to conduct any proceedings to gather information.

Subsection (b) is intended to clarify that even if notice of the need for an interpreter is not given by one of the individuals required to give notice under § 201(a), the presiding judicial officer may *sua sponte* determine the need for an interpreter and thereby start the appointment process if he or she deems it appropriate to do so under these regulations.

#### § 203. Appointment of Interpreters.

(a) Appointment of a certified interpreter.—The presiding judicial officer shall appoint the certified interpreter procured pursuant to § 201(c)(1) unless a certified interpreter is unavailable.

(b) Appointment of an otherwise qualified interpreter.—

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if the presiding judicial officer determines that the Appellate Court Prothonotary/District Court Administrator or his or her designee made a good faith effort to procure a certified interpreter and a certified interpreter was not available and that the otherwise qualified interpreter was properly procured pursuant to § 201(c)(2). In making the foregoing determinations the presiding judicial officer shall consider the efforts made by the Appellate/District Court Administrator or his or her designee and whether these efforts complied with the requirements of § 201(c).

(i) Persons with limited English proficiency.—

Prior to the appointment of the otherwise qualified interpreter for a person with limited English proficiency, the presiding judicial officer shall determine the interpreter's qualifications by:

(A) conducting the *voir dire* for qualifying interpreters for persons with limited English proficiency recommended by the Court Administrator;

(B) ascertaining that the otherwise qualified interpreter has read, understands and agrees to abide by the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator; and

(C) verifying that the otherwise qualified interpreter is listed in the interpreter roster published by the Court Administrator.

(ii) Persons who are deaf or hard of hearing.—

Prior to the appointment of the otherwise qualified interpreter for a person who is deaf or hard of hearing, the presiding judicial officer shall determine the interpreter's qualifications by:

(A) conducting the *voir dire* for qualifying interpreters for persons who are deaf or hard of hearing recommended by the Court Administrator;

(B) ascertaining that the otherwise qualified interpreter has read, understands and agrees to abide by the National Association of the Deaf (NAD)—Registry of Interpreters for the Deaf (RID) code of professional conduct, and the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator;

(C) verifying that the otherwise qualified interpreter is listed in the interpreter roster published by the Court Administrator;

(D) verifying that the otherwise qualified interpreter is certified by the NAD or RID, by asking to see the interpreter's membership card; and

(E) that the otherwise qualified interpreter has complied with the requirements of the Sign Language Interpreter and Transliterator State Registration Act, 63 P.S. § 1725.1 *et seq.*, and is registered with the Office for the Deaf and Hard of Hearing (ODHH) within the Department of Labor and Industry of the Commonwealth.

(2) In ascertaining whether an individual is able to interpret and should be appointed as an otherwise qualified interpreter, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters for persons with limited English proficiency or for persons who are deaf or hard of hearing.

(c) Additional interpreter(s).—After consideration of the type and length of the judicial proceeding and the number of persons requiring interpreters involved, the presiding judicial officer may appoint, as provided for in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer. In making this determination, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of additional interpreters for persons with limited English proficiency or for persons who are deaf or hard of hearing.

(d) Interpreter for immediate family.—The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for additional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

(e) Persons who are not to be appointed as interpreters.—Under no circumstances should the pre-

siding judicial officer appoint a family member of the person with limited English proficiency or person who is deaf or hard of hearing, a witness, party, or other persons who may have an interest in the outcome of a judicial proceeding or those who may be perceived to have an interest in the outcome (i.e., police officers, sheriff's deputies, constables, etc.) to act as an interpreter for that person.

#### Comment

Subsection (a) of § 203 authorizes the presiding judicial officer to appoint a certified interpreter after the steps outlined in §§ 201 and 202 have been taken. If the judicial proceeding is conducted in a court of record, the formal appointment of either a certified interpreter or an otherwise qualified interpreter should always be done on the record at the first appearance of the interpreter at the proceeding. Subsection (c) allows for the appointment of a team of interpreters if the judicial proceeding is a jury trial, is likely to be more than two hours in duration, or, in the case of a deaf or hard of hearing person, whenever the limitations and particularities of the person's form of communication (such as when the deaf or hard of hearing person is a foreign national who does not communicate in any of the forms of sign language spoken in this country) requires it. ]

#### § 201. Notices to be Provided Concerning Right to an Interpreter.

(a) District Court Administrators, presiding judicial officers, judicial staff, and filing offices must ensure that a Notice of Language Rights is provided to named parties and witnesses for all judicial proceedings.

(b) Every hearing notice or subpoena for any judicial proceeding must include a Notice of Language Rights. This notice shall inform the recipient of the right to a court-appointed interpreter at no cost and the process for requesting one.

(c) Information concerning language rights and services available must be conspicuously displayed on posters, cards, and brochures throughout court facilities, posted on court websites, and provided to the public, justice partners, legal aid agencies, and community-based organizations.

#### Comment

The Notice of Language Rights created pursuant to the Language Access Plan for the UJS provides contact information for the language access coordinator (LAC) for each judicial district and informs limited English proficient and deaf or hard of hearing individuals that they may contact the LAC to arrange for an interpreter.

#### § 202. Persons to Notify Court Concerning Need for Interpreters.

(a) The following persons shall give notice to the court when a person has limited English proficiency or is deaf or hard of hearing and requires an interpreter for any judicial proceeding:

(1) For a principal party in interest in a judicial proceeding, either the principal party in interest or his or her attorney, without delay.

(2) For a witness in a judicial proceeding, the party that intends to call the person as a witness as soon as is practicable after learning of the need for an interpreter.

(3) For a crime victim whose presence is anticipated at a judicial proceeding, the affiant, law enforcement officer, or the attorney for the Commonwealth, as soon as is practicable after learning of the need.

(b) Any other person with knowledge that a principal party in interest, witness, or crime victim will require an interpreter may give notice of the need for an interpreter.

(c) Notice to the court pursuant to this section may be made to the presiding judicial officer, the language access coordinator (LAC), or, for persons who are deaf or hard of hearing, the Americans with Disabilities (ADA) coordinator, for the judicial district in which the proceeding will be held, or the Appellate Court Prothonotary/District Court Administrator or his or her designee, and should contain the information required in subsection (d)(2).

**(d) Form and content of notice.—**

(1) *Notice form.*—The notice of need for an interpreter should be given on the form provided by the Court Administrator, if practicable. If notice by way of said form is not practicable, written or oral notice may be given, provided it contains the information set forth in paragraph (2).

(2) *Content of notice.*—The notice of need for an interpreter, whether on the form specified in paragraph (1) or otherwise, must contain, at a minimum, the following information:

- (i) party and case identifying information; and
- (ii) for a person with limited English proficiency, the language spoken (specifying any particular dialect or regional version) and the country of origin; or
- (iii) for a person who is deaf or hard of hearing, the type of sign language or method of communication used, the country of origin (if a foreign sign language is used to communicate), and any other information that will help identify the person's preferred means of communication.

**Comment**

This section is intended to clarify those persons who are required to provide notice to the court of the need for an interpreter for an LEP or deaf or hard of hearing person. In addition, subsection (b) provides that any person may provide notice of the need for an interpreter when they have knowledge that someone appearing in a judicial proceeding is limited English proficient (LEP) or deaf or hard of hearing.

Subsection (a) requires that notice be given without delay or as soon as practicable after learning of the need. The fact that no specific time limit is given is in recognition of the fact that situations may arise in which significant advance notice is not feasible. Nevertheless, the party responsible for giving notice under these regulations or anyone aware of the need must notify the presiding judicial officer or Appellate Court Prothonotary/District Court Administrator or his or her designee as soon as the need for an interpreter is known so as to avoid unnecessary delay.

Subsection (d)(1) makes clear that notice on the form provided by the Court Administrator is the

preferred method of providing notice of need for an interpreter. If use of the Court Administrator's form is not practicable, other written or oral notice is acceptable, provided it conveys the information set forth in subsection (d)(2). The request form can be found on the Interpreter Program page of the UJS website, <http://www.pacourts.us>.

**§ 203. Procurement of Certified or Otherwise Qualified Interpreters.**

(a) Once the Appellate Court Prothonotary/District Court Administrator or his or her designee is made aware of the need for an interpreter, he or she shall procure a certified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of certified interpreters.

(b) If the Appellate Court Prothonotary/District Court Administrator or his or her designee cannot procure a certified interpreter in the manner set forth in subsection (a), he or she shall procure an otherwise qualified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters.

(c) Courts shall utilize existing mechanisms available in statewide case management systems and shall develop mechanisms in conjunction with their filing offices to track the need for an interpreter throughout the life cycle of a case.

**Comment**

The regulations do not require that only one person be designated by the Appellate Court Prothonotary/District Court Administrator to handle requests for interpreters. For example, in addition to the LAC, the designee for common pleas interpreter requests may be the District Court Administrator, while for cases in the magisterial district courts, the deputy or assistant court administrator may be designated. A complete list of LACs is available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>.

In the case of a deaf or hard of hearing juror, the District Court Administrator or his or her designee should follow the judicial district's existing policies pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, to ensure proper accommodation of a deaf or hard of hearing juror. Juror summonses and/or questionnaires should advise prospective jurors to give notice of need for an accommodation prior to the date they report for jury duty.

Subsection (a) requires the Appellate Court Prothonotary/District Court Administrator or his or her designee to follow the Court Administrator's guidelines for appointing a certified interpreter and to make the necessary arrangements to secure the interpreter's services for the judicial proceeding if one is found. If a certified interpreter cannot be found, subsection (b) requires the Appellate Court Prothonotary/District Court Administrator or his or her designee to obtain an otherwise qualified interpreter in the manner provided in the Court Administrator's guidelines. In procuring either a certified or otherwise qualified interpreter, and when the person requiring the interpreter is a person with limited English proficiency, the Appel-

late Court Prothonotary/District Court Administrator or his or her designee may obtain the services of an interpreter to interpret remotely subject to the limitations of § 104. In the event that neither a certified nor an otherwise qualified interpreter can be procured, the Appellate Court Prothonotary/District Court Administrator or his or her designee shall contact the AOPC for guidance.

The requirement in subsection (c) comes from the Language Access Plan for the Unified Judicial System (UJS-LAP), available at <http://www.pacourts.us>. UJS-LAP at 31, "Documentation of Language Needs."

#### § 204. Determination of Need for Interpreter.

(a) *Proceedings to determine need for an interpreter.*—Ordinarily, the presiding judicial officer must appoint an interpreter after notice of need for an interpreter is given or a request for an interpreter is made. If, after considering the notice of need, the presiding judicial officer requires additional information in order to make the determination that the person is limited English proficient or deaf or hard of hearing, or of the appropriate language or means of communication with the interpreter, he or she may request any additional filings from the parties or conduct any proceedings he or she deems necessary including, but not limited to, conducting the *voir dire* for determination of need for an interpreter for persons with limited English proficiency or who are deaf or hard of hearing established by the Court Administrator. If the Appellate Court Prothonotary/District Court Administrator or his or her designee requires additional information, he or she may request additional information and may request that the presiding judicial officer conduct proceedings to determine the need for an interpreter.

(b) If, during the course of the judicial proceeding, and without regard to whether notice of need for an interpreter was given, the presiding judicial officer determines that a principal party in interest is a person with limited English proficiency or that a principal party in interest, witness, direct victim, or juror is deaf or hard of hearing and is in need of an interpreter, he or she shall give notice to the Appellate Court Prothonotary/District Court Administrator or his or her designee as provided in § 202(d) (relating to persons to notify court concerning need for interpreters).

#### Comment

Presiding judicial officers, the Appellate Court Prothonotary/District Court Administrator, or the designees of the Appellate Court Prothonotary/District Court Administrator taking action under this section must do so in compliance with the non-discrimination provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and the regulations promulgated thereunder, 28 C.F.R. §§ 42.101 *et seq.*, as well as the stated purpose of 42 Pa.C.S. Ch. 44 (relating to court interpreters). See 42 Pa.C.S. § 4401 (relating to legislative findings and declaration).

Presiding judicial officers, the Appellate Court Prothonotary/District Court Administrator, or the designees of the Appellate Court Prothonotary/District Court Administrator taking action under this section must also take care not to ask questions that would violate Rules 250 through 252 of

the Pennsylvania Rules of Judicial Administration or the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.* Specifically, persons with disabilities need not submit documentation to establish proof of their disability. Furthermore, in compliance with the ADA's provisions on effective communication, judicial district ADA coordinators and judges must give primary consideration to the means of communication requested by the deaf or hard of hearing court user when making arrangements to accommodate that individual. For example, judges may ask a deaf or hard of hearing litigant whether they use American Sign Language, need a Certified Deaf Interpreter, or prefer CART (Communication Access Realtime Translation) in order to participate effectively in the proceeding.

Persons who request language access services should be provided with them. Subsection (a) covers the exceptional circumstance when the person notified of need for an interpreter may require additional information. This subsection permits a presiding judicial officer to acquire additional information in order to make the determination of need by way of supplemental filings, hearings, and any other means typically within the presiding judicial officer's power in handling the particular judicial proceeding. In the case of persons with limited English proficiency, the *voir dire* established by the Court Administrator should be used for assessing the level of English proficiency of the individual in question. The Appellate Court Prothonotary/District Court Administrator may request additional information but is not empowered to conduct any proceedings to gather information.

Subsection (b) is intended to clarify that even if notice of the need for an interpreter is not given by one of the individuals required to give notice under § 202(a), the presiding judicial officer may *sua sponte* determine the need for an interpreter and thereby start the appointment process if he or she deems it appropriate to do so under these regulations.

#### § 205. Appointment of Interpreters.

(a) *Appointment of a certified interpreter.*—The presiding judicial officer shall appoint the certified interpreter procured pursuant to § 203(a) (relating to procurement of certified interpreters) unless a certified interpreter is unavailable.

(b) *Appointment of an otherwise qualified interpreter.*—

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if the presiding judicial officer determines that the Appellate Court Prothonotary/District Court Administrator or his or her designee made a good faith effort to procure a certified interpreter and a certified interpreter was not available and that the otherwise qualified interpreter was properly procured pursuant to § 203(b). Otherwise qualified interpreters should also be chosen, if available, from the roster. In making the foregoing determinations, the presiding judicial officer shall consider the efforts made by the Appellate Court Prothonotary/District Court Administrator or his or her designee and whether these efforts complied with the requirements of § 203.

(i) Persons with limited English proficiency.—

Prior to the appointment of the otherwise qualified interpreter for a person with limited English proficiency, the presiding judicial officer shall determine the interpreter's qualifications by:

(A) verifying that the otherwise qualified interpreter is listed in the interpreter roster published by the Court Administrator. This can be accomplished in a number of ways, including but not limited to asking the interpreter to present their Interpreter Certification Program card issued by AOPC. Where the interpreter is on the roster, steps (B) and (C) below are not necessary.

(B) conducting the *voir dire* for qualifying interpreters for persons with limited English proficiency; and

(C) ascertaining that the otherwise qualified interpreter has read, understands, and agrees to abide by the Rules of Professional Conduct for Judiciary Interpreters. See Schedule F of these regulations.

(ii) Persons who are deaf or hard of hearing.—

Prior to the appointment of the otherwise qualified interpreter for a person who is deaf or hard of hearing, the presiding judicial officer shall determine the interpreter's qualifications by:

(A) conducting the *voir dire* for qualifying interpreters for persons who are deaf or hard of hearing recommended by the Court Administrator;

(B) verifying that the otherwise qualified interpreter is certified by the National Association of the Deaf (NAD) or Registry of Interpreters for the Deaf (RID), by asking to see the interpreter's membership card;

(C) ascertaining that the otherwise qualified interpreter has read, understands, and agrees to abide by the NAD-RID code of professional conduct, and the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator;

(D) verifying that the otherwise qualified interpreter is listed in the interpreter roster published by the Court Administrator by asking them to present their Interpreter Certification Program card issued by AOPC; and

(E) verifying that the otherwise qualified interpreter has complied with the requirements of the Sign Language Interpreter and Transliterators State Registration Act, 63 P.S. §§ 1725.1 *et seq.*, and is registered with the Office for the Deaf and Hard of Hearing (ODHH) within the Pennsylvania Department of Labor and Industry.

(2) In ascertaining whether an individual is able to interpret and should be appointed as an otherwise qualified interpreter, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters for persons with limited English proficiency or for persons who are deaf or hard of hearing and these regulations.

(c) Additional interpreter(s).—After consideration of the type and length of the judicial proceeding and the number of persons requiring interpreters involved, the presiding judicial officer may appoint, as provided for in subsections (a) and (b), an

additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer. The presiding judicial officer should appoint a team of interpreters in the following circumstances: where a bench trial, jury trial, or other judicial proceeding is expected to last longer than two hours; in capital cases; in cases involving complex subject matter and expert witnesses; or whenever three or more persons need the services of the interpreter and there is no simultaneous remote interpreting equipment available in the courtroom. In making this determination, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of additional interpreters for persons with limited English proficiency or who are deaf or hard of hearing.

(d) Interpreter for immediate family.—The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for additional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

(e) Persons who are not to be appointed as interpreters.—Under no circumstances should the presiding judicial officer appoint a family member of the person with limited English proficiency or who is deaf or hard of hearing, a witness, party, or other persons who may have an interest in the outcome of a judicial proceeding or those who may be perceived to have an interest in the outcome (e.g., police officers, sheriff's deputies, constables, lawyers in the case, advocates assisting the parties, etc.) to act as an interpreter for that person.

Comment

Subsection (a) authorizes the presiding judicial officer to appoint a certified interpreter after the steps outlined in §§ 202, 203, and 204 have been taken. If the judicial proceeding is conducted in a court of record, the formal appointment of either a certified interpreter or an otherwise qualified interpreter should always be done on the record at the first appearance of the interpreter at the proceeding.

Subsection (c) recommends the appointment of a team of interpreters if the judicial proceeding is a trial, is likely to be more than two hours in duration, or, in the case of a deaf or hard of hearing person, whenever the limitations and particularities of the person's form of communication require it (such as when the deaf or hard of hearing person is a foreign national who does not communicate in any of the forms of sign language spoken in this country). In addition, judicial officers should be aware that accuracy of interpretation can decline substantially after 30 minutes of continuous interpretation and should provide the interpreter with regular breaks accordingly.

§ [ 204 ] 206. Replacement or Removal of Interpreter.

(a) The presiding judicial officer shall dismiss an interpreter and obtain the services of another interpreter in accordance with this chapter if the interpreter:

(1) fails to follow the standards prescribed by law, by the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator, or the NAD-RID code of professional conduct or any other professional



organization regulating the interpreter, by engaging in conduct such as, but not limited to:

(i) knowingly and willfully making false, misleading, or incomplete interpretation while serving in an official capacity;

(ii) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;

(iii) failing to reveal potential conflicts of interest;

(iv) misrepresenting his or her credentials; or

(v) failing to appear as scheduled without good cause.

(2) is unable to effectively communicate with the presiding judicial officer or the person with limited English proficiency or [ **the person** ] who is deaf or hard of hearing, including where the interpreter self-reports such inability.

(b) In the event a presiding judicial officer removes an interpreter for the grounds specified in subsection (a)(1), he or she shall notify the Court Administrator.

#### Comment

Subsection (b) requires that a presiding judicial officer inform the Court Administrator whenever an interpreter has to be removed for failing to follow standards prescribed by law or the Rules of Professional Conduct for Judiciary Interpreters established by the Court Administrator, the NAD-RID code of professional conduct, or any other professional organization regulating the interpreter. This mandatory reporting requirement allows the Court Administrator to enforce the applicable standards and Rules of Professional Conduct for Judiciary Interpreters. In addition to reporting violations resulting in removal of a court interpreter, the presiding judicial officer is encouraged to report any other suspected violations of legal standards, the Rules of Professional Conduct for Judiciary Interpreters, failure to follow Interpreter Certification Program guidelines, the Sign Language Interpreter and Transliterator State Registration Act, [ **63 P.S. § 1725.1 et seq.** ] **63 P.S. §§ 172531 et seq.**, and the standards of the Department of Labor and Industry's Office of the Deaf and Hard of Hearing (ODHH), even if the suspected violations are not sufficient to cause the presiding judicial officer to remove the interpreter.

### Subchapter 3. CERTIFICATION REQUIREMENTS

#### § 301. Interpreter Certification Requirements.

To become certified or otherwise qualified, interpreters shall meet the requirements set forth in this chapter.

#### § 302. Registration.

All interpreters must register with the Interpreter Certification Program (**ICP**) by completing a registration form. Registration is free and indicates the interpreter's willingness to become certified according to program guidelines. Sign language interpreters must also register with the Office for the Deaf and Hard of Hearing (ODHH) within the Department of Labor and Industry of the Commonwealth as required by the Sign Language Interpreter and Transliterator State Registration Act, [ **63 P.S. § 1725.1 et seq.** ] **63 P.S. §§ 1725.1 et seq.** if they hold a Registry of Interpreters for the Deaf (RID) or National Association of the Deaf (NAD) certificate.

#### Comment

[ **As of January 1, 2010, only** ] **Only** registered interpreters who have attended an orientation workshop,

passed the written examination, and passed [ **the simultaneous part of** ] **all** oral [ **examination,** ] **examinations required for their language of expertise** can work in the Unified Judicial System [ **pending the outcome of their certification process** ] (**UJS**). Registration forms are available on the [ **ICP web site: [www.pacourts.us/t/aopc/courtinterpreterprog](http://www.pacourts.us/t/aopc/courtinterpreterprog)** ] **Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>.**

#### § 303. Orientation Workshop.

Interpreters must attend a two-day orientation workshop sponsored by the ICP. Schedule A of these regulations contains a list of the topics covered by the orientation workshop.

#### § 304. Examinations.

(a) Written examination.—After completing the orientation workshop, interpreters are eligible to take the written examination. The written exam is designed to measure the interpreter's general English language proficiency and usage, knowledge of court-related terms, and familiarity with ethical and professional conduct.

(1) Multiple choice.—The first part of the written examination consists of multiple-choice questions. All interpreters, [ **regardless of the language they interpret** ] **except those who are deaf**, must take the multiple choice part of the examination, **regardless of the language they interpret**. Schedule B of these regulations discusses the number of questions on the multiple choice portion of the examination and the minimum number of questions that must be answered correctly for an interpreter to pass.

(2) Foreign Language Assessment Exercise.—Interpreters who interpret languages for which there is a full or abbreviated oral proficiency examination must also take and pass a foreign language assessment exercise. Interpreters who interpret in more than one language for which a full or abbreviated oral examination exists must take the foreign language assessment exercise for each language. Interpreters must pass both the multiple-choice examination and the foreign language assessment exercise.

If no full or abbreviated oral exam exists in any of an interpreter's working languages, he or she is not required to take the foreign language assessment exercise. Sign language interpreters are exempt from taking the foreign language assessment exercise.

#### Comment

Interpreters are advised to take the foreign language assessment exercise in the language in which they are most fluent first. Subsequently, when attempting to become certified in a second language, they must take the foreign language assessment exercise for that language before taking the oral exam. Schedule B of these regulations discusses the content, passing requirements, and time allotted for the foreign language assessment exercise. Schedule C contains a list of languages for which full or abbreviated oral proficiency examinations exist.

(b) Oral proficiency examination.—

(1) Foreign language interpreters.—Interpreters who pass the written examination must next take an oral proficiency examination. The type and format of the proficiency examination depends on the language interpreted and whether there is a full or abbreviated profi-

ciency examination available in that language. Interpreters who interpret more than one language must be certified in each language.

(i) Languages for which there is a full or abbreviated oral proficiency examination.—Interpreters who interpret languages for which there is a full or abbreviated oral proficiency examination must take and pass all available parts in order to become certified. Where there is only an abbreviated examination, the interpreter must pass the available parts and agree to take the remaining parts when available in order to remain certified. Schedule C of these regulations details the contents of the full oral proficiency examination and provides lists of languages for which there is a full or abbreviated oral proficiency examination.

(ii) Languages for which there is no oral proficiency examination.—To demonstrate linguistic proficiency, interpreters of languages for which there is no full or abbreviated oral performance examination must comply with one or more of the following requirements:

(A) pass an oral proficiency interview in their foreign language in which the interpreter's foreign language skills are evaluated by expert raters during the course of a [ **telephone based** ] **telephone-based** interview session. Details of the oral proficiency interview are contained in Schedule C of these regulations;

(B) pass an oral English proficiency [ **interview and/or Test of English as Foreign Language (TOEFL)** ] **exam, such as the Versant Spoken English language test**. When an interpreter's English language skills are deemed insufficient, he or she may be asked to take and pass an English proficiency interview at the superior level [ **and/or a TOEFL** ] at the discretion of the ICP; [ **or** ] **and**

(C) agree to take a full or abbreviated test when available.

(iii) Administration of oral proficiency examinations.—The oral proficiency examination must be taken and passed in the manner, and within the time periods, described in Schedule C of these regulations.

(iv) Retaking the oral proficiency examination.—Interpreters who fail any portion of the oral proficiency examination may retake it in the manner described in Schedule C of these regulations.

(2) Sign language interpreters.—After attending the orientation workshop and passing the multiple-choice part of the written exam, sign language interpreters must comply with the following requirements in lieu of an oral examination:

(i) be certified by [ **RID or NAD** ] **Register of Interpreters for the Deaf (RID), Texas Board for Evaluation of Interpreters (BEI), or National Association for the Deaf (NAD)**;

(ii) provide proof of **RID, BEI, or NAD** certifications (proof shall consist of a copy of the interpreter's certificates and a valid active membership card, or a letter from **RID, BEI, or NAD** certifying the results of the proficiency examination and status); and

(iii) hold a relevant **RID, BEI, or NAD** certificate for legal interpretation as determined by the Court Administrator. A list of relevant **RID, BEI, or NAD** certificates for legal interpretation can be found in Schedule C of these regulations.

### § 305. Criminal Background Check.

All interpreters who have satisfactorily completed the oral proficiency requirements shall be subject to a criminal background check performed through the [ **Administrative Office of Pennsylvania Courts** ] **AOPC**. The following constitute grounds for failing the background check:

(a) conviction of any type of felony or a misdemeanor involving fraud, dishonesty, corruption, moral turpitude, or false statements; or

(b) any conviction related to [ **ethical violations and** ] the functions and duties of a court interpreter.

### § 306. Interpreter Classification.

In general, there are two broad categories of interpreters: certified and otherwise qualified. For certification purposes, interpreters are divided into three groups: (1) those who interpret in a language for which a full or abbreviated oral proficiency examination exists; (2) those who interpret in a language for which there is no oral proficiency examination; and (3) sign language and deaf interpreters. The classifications and certification criteria are subject to modification, revision and change. Schedule D of these regulations contains tables detailing the current classification of the three certification groups.

#### Comment

The classifications and certification criteria are subject to modification, revision, and change based on developments such as the availability of new performance tests, the effectiveness or development of evaluation tools, reconsideration of the skill level represented by the various categories, and other related factors. Therefore, these classifications should not be viewed as definitive or permanent, especially for those in the otherwise qualified category.

### § 307. Interpreter Rules of Professional Conduct.

All interpreters must sign a statement that they will abide by the Rules of Professional Conduct for Judiciary Interpreters.

#### Comment

A copy of the Pennsylvania Rules of Professional Conduct for Judiciary Interpreters may be found in Schedule F of these regulations.

### § 308. Age Requirement.

To be certified, an interpreter must be at least 18 years of age and agree to provide proof of age if requested by any court official or member of the ICP.

### § 309. Fees.

Interpreters shall pay all fees required during the certification process and in the future for the renewal of their certification status, and any other fees imposed for the completion of any mandated program requirements. Fees will be waived for staff interpreters employed full time by any judicial district in Pennsylvania. Schedule E of these regulations contains a table of the current ICP fees.

### § 310. Renewal of Certification.

All interpreters must renew their certification every two years [ , ] from the date the interpreter was placed on the roster [ , ] by doing all of the following:

(a) Complete 16 continuing education (CE) units within the two-year compliance period. CE [ **credits** ] **units**

may be obtained by: taking training or skill development workshops sponsored by institutes and professional organizations; taking academic courses in accredited colleges or universities in areas relevant to court interpreting; presenting as faculty in courses, workshops, or seminars on topics related to interpreting such as skill building, ethics, and professional issues; or teaching an academic course in an accredited college or university on a subject related to courts, legal interpreting, or their language of expertise. All CE units must be approved in advance by the [ program ] **Interpreter Certification Program** administrator.

(b) Be free of any revocation or suspension under § 402 [ of these regulations ] (relating to suspension or revocation of certification and roster status) or any similar sanction in any other jurisdiction.

(c) Undergo a new criminal background check when applying for renewal. Interpreters who have been found guilty of a major felony or crime will be denied renewal of their credentials. Misdemeanor offenses will be evaluated on a case-by-case basis to determine if they constitute a violation of the Rules of Professional Conduct for Judiciary Interpreters.

(d) Pay the renewal fee.

#### § 311. Waiver and Reciprocity of Examination Requirements.

(a) Interpreters certified in another [ Consortium member ] state **that is a member of the National Center for State Courts (NCSC) Language Access Services Section.**—Any interpreter who has successfully completed all the requirements of the oral proficiency examination administered in accordance with the standards of [ the Consortium for State Court Interpreter Certification in another Consortium ] **another NCSC Language Access Services Section member state may apply for reciprocity.** The interpreter must have obtained a minimum of **80 percent in the multiple choice written exam and 70 percent [ of ]** in all parts of the oral proficiency examination and obtain a letter from the [ State's ] **state's** program manager certifying the results. These interpreters must also comply with all additional program requirements.

(b) Interpreters holding Federal [ or NAJIT certifications ] **certification.**—Interpreters holding [ either the ] a **valid** Federal Court Interpreter credential [ or the National Association of Judiciary Interpreters and Translators (NAJIT) certification ] will be granted reciprocity under the same conditions explained above with regard to other [ Consortium ] **NCSC Language Access Services Section** member states. These interpreters must also comply with all additional program requirements.

### Subchapter 4. DISCIPLINARY PROCEDURES

#### § 401. Scope.

These procedures apply only to interpreters who are included on the roster maintained by the Interpreter Certification Program (ICP). Staff interpreters who are employees of their respective judicial districts may also be subject to additional personnel and human resources policies in the districts where they are employed.

These procedures apply to complaints about roster interpreters who have allegedly engaged in unethical [ or ], unprofessional, **or criminal** conduct in the course

of performing their interpreter duties and, in some instances, of unethical conduct outside the scope of interpreting.

#### Comment

**Separate and distinct from the procedures under this chapter is the Language Access Complaint Form, available on the Language Access & Interpreter Program page of the UJS website, <http://www.pacourts.us>. Anyone can utilize the Language Access Complaint Form to make the court aware of other language access problems, such as where no interpreter is provided.**

#### § 402. Suspension or Revocation of Certification and Roster Status.

The following shall constitute grounds for disciplinary action against interpreters registered with the ICP. Certified, otherwise qualified, or registered status may be suspended or revoked for any of the following reasons:

(a) violation of the Rules of Professional Conduct for Judiciary Interpreters;

(b) conviction of a felony or misdemeanor involving moral turpitude, dishonesty, or false statements;

(c) fraud, dishonesty, or corruption related to the functions and duties of a court interpreter;

(d) knowing misrepresentation of court certification or roster status;

(e) knowing and willful disclosure of confidential or privileged information obtained while serving in an official capacity as a court interpreter;

(f) unprofessional or unethical conduct;

(g) fraud or misrepresentation in obtaining or renewing certification status;

(h) non-compliance with continuing education requirements;

(i) non-payment of renewal fees; or

(j) disciplinary action taken in conjunction with the interpreter's services in another jurisdiction.

#### § 403. Reporting of [ Arrest ] **Criminal Investigation/ Prosecution** or Discipline.

An interpreter who [ is arrested ] **receives notice that he or she is the subject of any federal or state criminal investigation or prosecution through a target letter, a subject letter, a presentment, an indictment, an arrest, a summons, a complaint, other legal process, or any other means from the investigating or prosecuting authority,** in any jurisdiction or has been disciplined by the interpreter program of any other jurisdiction shall report the [ arrest ] **notice or discipline, unless precluded by order of court,** to the ICP within forty-eight hours of [ the arrest or ] receiving notification [ of the ] **or** discipline and shall provide, upon request of the ICP, any pertinent information related to the [ arrest ] **notification** or discipline.

#### § 404. Disciplinary Procedures.

(a) Lodging a complaint against an interpreter subject to these procedures.—A complaint must be submitted to the ICP in writing on a standard complaint form signed by the complainant. The complaint shall include a description of the alleged improper activity and the identity

of any witnesses. Any person, including the ICP Administrator, may initiate a complaint.

(b) Review of Complaint.—The ICP Administrator will review the complaint and determine whether the allegations, if true, constitute grounds for disciplinary action pursuant to § 402 [ **of these regulations** ] (**relating to suspension or revocation of certification and roster status**). If the ICP Administrator determines that the complaint does not allege conduct that constitutes grounds for discipline, the complaint shall be dismissed and both the complainant and the interpreter will be notified. If the ICP Administrator determines that sufficient grounds for discipline exist, a copy of the complaint will be sent to the interpreter.

(c) Response.—Upon receipt of a copy of the complaint, the interpreter may submit a written response to the ICP Administrator within 20 days. Failure to respond will be deemed an admission of the violations alleged in the complaint. The ICP Administrator will then apply whatever sanctions are considered to be appropriate.

(d) Investigation.—When the interpreter submits a timely response to the complaint, the ICP Administrator shall conduct an investigation. The ICP Administrator may contact the interpreter, the complainant, and any other person deemed to have relevant information, and use any reasonable means necessary to ascertain the facts and investigate the allegations. The ICP Administrator may also meet with the parties in an attempt to resolve the matter informally. Such a resolution may or may not include sanctions as agreed to by the parties.

(e) Determination.—If, at the conclusion of the investigation, the ICP Administrator determines that no conduct occurred that constitutes ground for discipline, the complaint shall be dismissed and both the complainant and the interpreter shall be notified. The notification shall include an explanation of the reason(s) for the ICP Administrator's determination.

When, after an investigation, the ICP Administrator determines that a violation of the Rules of Professional Conduct for Judiciary Interpreters has occurred and that sufficient grounds exist to support the allegations in the complaint, the ICP Administrator will submit a report of the findings in writing to the complainant and the interpreter including which policies have been violated and whatever sanctions are considered to be appropriate.

(f) Petition for review.—If the interpreter disagrees with the ICP Administrator's findings and proposed sanctions and wants to contest them, the interpreter shall submit a petition for review in writing to the Court Administrator within 20 days of receiving the ICP Administrator's report and proposed sanctions. The petition shall briefly state the facts that form the basis for the initial complaint and the interpreter's reasons for disagreeing with the ICP Administrator's findings or proposed sanctions. A copy of the petition shall be provided to the ICP Administrator. Failure to file a petition for review in a timely manner will be deemed an admission of the violations alleged in the complaint and the ICP Administrator will implement the recommended sanctions.

(g) Hearing.—If the interpreter contests the findings of the ICP Administrator's report or disagrees with the recommended sanctions and submits a timely petition for review as provided in [ § 404 ] **subsection** (f), the interpreter may request, and shall be given, a hearing

before a hearing officer designated by the Court Administrator. A request for a hearing must be included in the petition for review.

If the interpreter requests a hearing in a timely manner, the hearing shall be held within 60 days from the date on which the petition is received by the Court Administrator. The following conditions will apply at the hearing.

(i) Legal representation.—The interpreter may be represented by counsel. The interpreter shall be responsible for all of his or her costs and expenses including attorney's fees.

(ii) Pre-hearing discovery.—Pre-hearing discovery shall not be permitted unless expressly authorized by the hearing officer in response to a written request.

(iii) Rules of evidence.—Strict rules of evidence shall not apply. The hearing officer may, in his or her discretion, consider any evidence presented, including affidavits, and give such evidence the weight he or she deems appropriate.

(iv) Reporting of [ **hearings** ] **hearing**.—A record of the hearing shall be made.

(v) Confidentiality.—Hearings shall be private and confidential, except upon request of the interpreter facing the allegations. Complainants, however, shall be entitled to attend the hearing.

(vi) Hearing procedure.—At the hearing, both the ICP Administrator and the interpreter shall be afforded the opportunity to introduce documents and other relevant evidence and to elicit sworn testimony. The hearing officer may, at his or her discretion, call witnesses, and consider or clarify evidence presented, giving such evidence the weight he or she deems appropriate.

(h) Decision.—Within 60 days after the hearing, the hearing officer shall advise the interpreter and the complainant via certified United States mail of his or her action on the complaint. If the hearing officer's action includes sanctions, the hearing officer shall specifically enumerate the sanctions[ , ] **and** the reason for such sanctions [ **and the interpreter's right to appeal** ]. If the sanctions include suspension or revocation of the interpreter's certification or roster status or placing the interpreter in a lower qualification or skill level on the roster, the hearing officer shall specify the conditions and timeframe within which the interpreter may apply for reinstatement of his or her prior certification or roster status and any conditions that must be met.

#### § 405. Disciplinary Dispositions.

(a) Burden of Proof.—If the hearing officer finds that there is clear and convincing evidence that the interpreter has violated the interpreter Rules of Professional Conduct for Judiciary Interpreters, or that there are any other grounds for discipline as stated in § 402 [ **of these regulations** ] (**relating to suspension or revocation of certification and roster status**), the hearing officer shall impose such discipline or sanctions as he or she may deem appropriate. In determining the type of sanction, the hearing officer shall consider the nature and seriousness of the violation, any pattern of improper activity, the effect of the improper activity on the court system and/or the complainant, the amount of experience of the interpreter, and any other mitigating or aggravating information presented.

(b) Notification.—All decisions of the hearing officer shall be in writing and maintained on file with the ICP

and, if adverse to the interpreter, shall contain factual findings supporting the decision. A copy of the decision shall be sent to the interpreter via certified United States Mail to the latest address listed with the ICP and by mail to the complainant.

(c) Sanctions.—Sanctions may consist of, but are not limited to, one or more of the following:

- (i) issuing a private or public reprimand;
- (ii) requiring that specific remedial education courses be taken;
- (iii) requiring that one or more portions of the certification examination or the certification requirements be successfully taken or retaken;
- (iv) requiring that the interpreter's work be supervised;
- (v) limiting the scope of practice or services the interpreter can provide;
- (vi) placing the interpreter at a lower qualification or skill level on the roster;
- (vii) requiring restitution, costs, or expenses to be paid;
- (viii) suspension of certification and/or roster status for a period not to exceed one year; or
- (ix) revocation of certification or roster status.

#### § 406. Reinstatement.

An interpreter whose certification or roster status has been suspended for a period exceeding one year, or whose certification or roster status has been revoked, may not resume work in any area related to legal interpreting within the Unified Judicial System without first applying for reinstatement.

(a) Time for filing application for reinstatement.—An interpreter whose certification or roster status has been revoked may not apply for reinstatement until the expiration of at least two years from the effective date of revocation of his or her certification or roster status, or any other specific [ **time frame** ] timeframe established by the revocation decision. An interpreter whose certification or roster status has been suspended may apply for reinstatement no earlier than ninety days before the end of the suspension period. An interpreter whose certification or roster status is suspended or revoked based on disciplinary action imposed by a foreign jurisdiction may apply for reinstatement at any earlier date on which reinstatement may be sought in the jurisdiction of initial discipline.

(b) Form and content of the application for reinstatement.—The application for reinstatement shall be in writing and addressed to the ICP Administrator. The application shall explain why the interpreter believes that he or she should be reinstated and shall include proof of compliance with any conditions imposed as a condition for reinstatement.

(c) Disposition of the application for reinstatement.—Within 60 days of receiving the application for reinstatement, and after reviewing and analyzing the merits of the case, the ICP Administrator shall make a recommendation to the Court Administrator on whether or not the interpreter should be reinstated. The recommendation should explain the basis for the recommendation. The decision to grant or deny such a request shall be at the sole discretion of the Court Administrator who can impose any additional conditions upon reinstatement as he or she may deem appropriate.

#### § 407. Confidentiality.

(a) When a disciplinary proceeding is either dismissed or results in a private reprimand, all records of the proceeding shall remain confidential unless otherwise provided for in this chapter. Otherwise, all such records shall become public whenever the decision becomes final.

(b) Complaints submitted to the ICP Administrator shall be confidential unless they result in formal disciplinary action.

(c) All communications to the Court Administrator, ICP Administrator, hearing officers, attorneys or counsel for the parties and staff, and all testimony given during a hearing pursuant to this disciplinary procedure relating to conduct for which an interpreter could be suspended, have his or her certification revoked, or be otherwise disciplined, shall be privileged.

#### Schedule A

##### Interpreter Orientation Workshop

##### Topics Covered by the Interpreter Orientation Workshop

1. Interpreting as a Profession.
2. Description of the Pennsylvania Judicial System.
3. [ **Ethics** ] Rules of Professional Conduct and Professional Development.
4. Interpreting Skills and Modes of Interpretation.
5. Preparing for the Written and Oral Examinations.

Interpreters will also receive training materials, information about resources, legal glossaries, and study tips at the Interpreter Orientation Workshop.

##### Faculty for the Interpreter Orientation Workshop

The Interpreter Orientation workshops will be taught by qualified professional trainers who are [ **Federally and RID** ] either federally, state, Texas Board of Evaluation of Interpreters (BEI), or Register of Interpreters for the Deaf (RID) certified interpreters and possess vast experience in the field of legal interpreting.

#### Schedule B

##### Written Interpreter Certification Examination

##### Multiple Choice: questions; passing requirements; time allotted.

The first part of the written examination consists of 135 multiple-choice questions. In order to pass the multiple-choice part, 80 percent (108 questions) must be answered correctly. Examinees are allotted two hours and fifteen minutes to complete the multiple-choice part of the test.

##### Foreign Language Assessment Exercise: questions; passing requirements; time allotted.

For the Foreign Language Assessment Exercise, the interpreter must translate ten items from English into the target language. The foreign language assessment will be administered the same day, immediately after the multiple-choice part of the examination, and will be rated on a pass/borderline pass/not pass basis. Examinees will have [ **45 minutes** ] 1 hour to translate the ten items.

#### Schedule C

##### Oral Proficiency Examination

**Content of the Full Oral Proficiency Examination.**  
The full oral proficiency exam consists of three parts:

simultaneous interpretation, consecutive interpretation, and sight translation. For languages in which there is only an abbreviated exam, one or more of these segments has not yet been developed.

**1. Simultaneous interpreting.** The interpreter listens through headphones to a [ CD ] recording of a simulated attorney's opening or closing statement to a judge or jury, a judge instructing a jury, or the cross-examination of a witness. The interpreter interprets aloud what he or she hears over the headset. This mode of interpreting simulates many situations interpreters encounter in courtrooms while interpreting for defendants during procedural hearings and trials. The statement is approximately 800 to 850 words in length, is recorded at an approximate speed of 120 words per minute, and is about seven minutes long.

**2. Consecutive interpreting.** The interpreter interprets English language statements into the foreign language and foreign language responses into English. In consecutive interpreting the interpreter must wait until the speaker finishes the utterance before beginning to deliver the interpretation. This is the appropriate type of interpreting for non-English speaking witnesses, and other question-and-answer situations involving limited English proficient persons. The segments are pre-recorded [ on a CD ] and the interpreter may ask to have two of the segments repeated.

**3. Sight translation.** The interpreter is asked to interpret one document from English into the foreign language and another from the foreign language into English. Each document is approximately 225 words in length and the interpreter is allowed six minutes to interpret each document.

#### **Languages for which there are Full or Abbreviated Oral Proficiency Examinations.**

**1. Full examination:** Arabic [ (Modern Standard) ], Cantonese, **Filipino (Tagalog)**, French, Haitian Creole, Hmong, [ **Ilocano, Italian** ] **Khmer**, Korean, [ **Lao-tian,** ] Mandarin, [ **Marshallese,** ] Polish, Portuguese, Russian, [ **Somali,** ] Spanish, and Vietnamese

**2. Abbreviated examination:** [ Arabic (Egyptian Colloquial), **Bosnian, Chuukese, Croatian, German, Serbian,** ] **Bosnian/Croatian/Serbian** and Turkish

Oral Proficiency Interview **and Versant Spoken English test** for Languages in Which There is no Full or Abbreviated Oral Proficiency Examination.

Oral proficiency interviews were developed by the American Council on the Teaching of Foreign Languages (ACTFL) for evaluating the language communication skills of speakers of foreign languages and are administered by Language Testing International (LTI). There are over 50 languages available and the interpreter must perform at the superior level to pass. The interpreter travels to a location with secure access to a phone line and, after providing a valid picture ID and other verifying information, the interpreter is placed in a room where the interview is administered over the telephone. The results are reported to the [ ICP ] **Interpreter Certification Program (ICP)** and the interpreter.

**Candidates must also pass the Versant Spoken English language test. This test evaluates the spoken English skills of non-native speakers. It is administered in the same manner as the oral proficiency interview. Candidates must travel to a se-**

**cure location where, after verifying their identity, they take the test online on a computer. The 15-minute test is automated and the candidate's responses are recorded in six areas: reading, sentence construction, vocabulary, fluency, pronunciation, and overall comprehension. The minimum passing score is 47.**

#### **Administration of Oral Proficiency Examinations.**

**1. Full oral proficiency examination.** Interpreters in languages for which there is a full oral proficiency exam will first be given the simultaneous part of the examination. After passing the simultaneous part, they will sit for the consecutive and sight portions at a subsequent date. The consecutive and the sight portions of the examination must be completed within one year from the date on which they took and passed the simultaneous portion. Interpreters will be allowed to carry forward the score of any portions they have passed for a maximum of two years. The same version of the examination can be taken a maximum of two times and the examination cannot be repeated more than once in a [ **ten-month** ] **six-month** period.

**2. Abbreviated oral proficiency examination.** Interpreters in languages for which only an abbreviated examination exists will be given the simultaneous portion first, if there is one. If no simultaneous part exists, they will take whatever portions are available, either the consecutive part, the sight part, or both. The scores of any portion passed can be carried forward for a maximum of two years. The same version of the examination can be taken a maximum of two times and the examination cannot be repeated more than once in a [ **ten-month** ] **six-month** period.

#### **Retaking Part of the Oral Proficiency Examination.**

Interpreters who fail the simultaneous part may retake the examination [ **again at any time** ]. However, [ **it is recommended that they allow themselves at least six to eight** ] **they must wait six months in order** to practice and develop their skills before attempting to retake the examination. If after passing the simultaneous part the interpreter fails either the consecutive or the sight portions, they must retake and pass whichever part they failed within one year. This is because interpreters must pass all three parts of the oral proficiency examination within one testing cycle, which consists of two years. The testing cycle requirement is not triggered until the interpreter passes the simultaneous portion.

Interpreters of languages for which there is only an abbreviated oral proficiency examination must also complete the remaining parts within one testing cycle after passing the simultaneous part, if there is one. If no simultaneous part exists, the interpreter must take whatever parts are available within one testing cycle. The testing cycle requirement is not triggered until the interpreter passes at least one part of the available parts of the oral proficiency examination that are available.

[ **RID or NAD Certificates for Legal Interpretation** ] **Register of Interpreters for the Deaf (RID), the Texas Board of Evaluation of Interpreters (BEI), or National Association for the Deaf (NAD) Certificates for Legal Interpretation.**

- Specialist Certificate-Legal (SC-L)
- Combined Certificate of Interpretation and Transliteration (CI/CT)
- Comprehensive Skills Certificate (CSC)

- National Interpreter Certification (NIC)
- Certified Deaf Interpreter (CDI)
- Conditional Legal Interpreting Permit-Relay (CLIP-R)
- Individual CI or CT
- NAD V Master
- NAD IV Advanced

• **BEI Court Interpreter Certification**

**Interpreters with a Court Interpreter Certification from BEI must comply with all qualifications and requirements for either hearing or deaf candidates listed in BEI Handbook Section 4.2.1 (Qualifications and Requirements for Court Interpreter Certification). See <https://www.hhs.texas.gov/>.**

**Schedule D**

**Interpreter Classification Tables**

**1. Interpreters Working in a Foreign Language for Which There is a Full or Abbreviated Oral Proficiency Examination.**

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Conditional
Written Exam	85% or higher	80% or higher	80% or higher	80% or higher
Simultaneous	85% or higher	70% or higher	60% or higher	50% or higher
Consecutive	85% or higher	70% or higher	60% or higher	50% or higher
Sight (Eng./FL)	85% or higher average but no lower than 80% in each part	70% or higher average but no lower than 65% in each part	60% or higher average but no lower than 55% in each part	50% or higher
Sight (FL/Eng.)	85% or higher average but no lower than 80% in each part	70% or higher average but no lower than 65% in each part	60% or higher average but no lower than 55% in each part	50% or higher

**2. Interpreters Working in a Foreign Language for Which There is no Full or Abbreviated Oral Proficiency Examination.**

CRITERIA	CLASSIFICATION	
	Otherwise Qualified	
	Registered	Conditional
Written Exam	80% or higher	80% or higher
Oral Proficiency Interview	Superior Level	No Oral Proficiency Interview available
English Oral Proficiency Test	[ Superior Level (if necessary) ] <u>Versant English Test</u> <u>Passing score 47</u>	[ Superior Level (if necessary) ] <u>Versant English Test</u> <u>Passing score 47</u>
[ TOEFL (written test) ]	[ Pass (if necessary) ]	[ Pass (if necessary) ]
Other	Pass oral proficiency test in their language when available	Pass oral proficiency test in their language when available

**3. Sign Language Interpreters and Interpreters for the Deaf.**

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Registered
Written Exam	85% or higher	80% or higher	80% or higher	80% or higher
RID Certification	SC/L	CI/CT, CDI, CLIP-R, CSC, NIC	CI or CT, or any other relevant	Any other relevant RID certificate
<b><u>BEI Certification</u></b>	<b><u>BEI Court Interpreter Certification</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>
NAD Certification	None	NAD V	NAD IV	Any other relevant NAD certificate
Register with ODHH	Yes	Yes	Yes	Only if holding a RID certificate

CRITERIA	CLASSIFICATION			
	Certified		Otherwise Qualified	
	Master	Certified	Qualified	Registered
Attempt to obtain relevant legal certificate	Not applicable	As necessary	As necessary	As necessary
Provide evidence of certification	Yes	Yes	Yes	Yes

## Schedule E

## Interpreter Certification Program Fees

EVENT	APPLIES TO	IN-STATE	OUT-OF-STATE
Registration	All interpreters	No charge	No charge
Orientation Workshop	All interpreters	\$150	\$175
Written Examination	All interpreters (except those qualifying for reciprocity)	\$50	\$75
<b>Language Assessment Exercise Retakes</b>	<b>Interpreters in languages with a full or abbreviated NCSC test</b>	<b>\$25</b>	<b>\$25</b>
Oral Exam—Simultaneous	Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)	\$100	\$125
Oral Exam—Consecutive & Sight	Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)	\$150	\$175
<b>Oral Exam—Full test</b>	<b>Interpreters in languages with a full NCSC test (except those who qualify for reciprocity)</b>	<b>\$250</b>	<b>\$300</b>
<b>Oral Exams Retakes—Any one part</b>	<b>Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)</b>	<b>\$100</b>	<b>\$125</b>
<b>Oral Exams Retakes—Any two parts</b>	<b>Interpreters in languages with a full or abbreviated NCSC test (except those who qualify for reciprocity)</b>	<b>\$150</b>	<b>\$175</b>
Oral Proficiency Interview	Interpreters [ of ] in languages for which there is no [ Consortium ] NCSC full or abbreviated oral exam	[ \$143 ] \$139*	[ \$143 ] \$139*
<b>Versant English Test</b>	<b>Interpreters in languages for which there is no NCSC full or abbreviated oral exam</b>	<b>\$32.95*</b>	<b>\$32.95*</b>
Registration of RID, BEI or NAD certifications	Sign language interpreters only	\$25	\$25
Background check	All interpreters	No charge	No charge
Registration of out-of-state certification	Interpreters applying for reciprocity	\$25	\$25
Renewal of certification (every two years)	All interpreters	\$25	\$25

\* Fees subject to change based on the agency administering the exam.



## Schedule F

Pennsylvania Rules of Professional Conduct for  
Judiciary Interpreters

## Legal Authority

In accordance with Act 172 of 2006 (42 Pa.C.S. §§ 4411(e) and 4431(e)), the Court Administrator of Pennsylvania hereby establishes these Rules of Professional Conduct for Judiciary Interpreters in the Unified Judicial System of Pennsylvania.

## Preamble

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency (LEP) or **[ a speech or hearing impairment ] because they are speech impaired or have a hearing loss.** It is the Court's intention to remove this communication barrier in order to provide equal access and due process so that these persons are placed in the same position as similarly situated persons for whom there is no such impediment. As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice. In their capacity as officers of the court, court interpreters are bound by rules of professional conduct.

## Applicability and Enforcement

These rules shall guide and be binding upon all persons, agencies and organizations who administer, supervise, deliver, or attempt to become certified to deliver, interpreting services to the Judiciary. It shall govern the conduct of persons who are employed, under contract, or otherwise appointed by the Judiciary to interpret, transliterate, **[ translate ]** or deliver foreign and sign language interpreting services to the judicial system. This shall include persons who offer their services free of charge or on a volunteer basis.

Violations of these rules may result in the interpreter being removed from a case, being suspended, being denied future appointments by the courts, losing certification if the interpreter has been certified pursuant to Act 172 and the Administrative Regulations Governing **[ Court Interpreters ] Language Access** for Persons with Limited English Proficiency and for Persons who are Deaf or Hard of Hearing or any other sanctions deemed appropriate by the Court Administrator of Pennsylvania. The Court Administrator is authorized to adopt policies and procedures necessary to enforce these rules.

**RULE 1: REPRESENTATION OF QUALIFICATIONS.**

Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

## Comment

Acceptance of a case by an interpreter conveys linguistic competency in legal settings. Withdrawing or being asked to withdraw from a case after it begins causes a disruption of court proceedings and is wasteful of scarce public resources. It is therefore essential that interpreters present a complete and truthful account of their certification, training, and experience prior to appointment so the officers of the court can fairly evaluate their qualifications for delivering interpreting services.

**RULE 2: ACCURACY AND COMPLETENESS.**

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting,

or adding anything to what is stated or written, and without embellishment or explanation.

## Comment

The interpreter has a twofold duty: (1) to ensure that the proceedings in English reflect precisely what was said by the **[ limited English proficient (LEP) person or ] LEP, speech [ or hearing impaired person, ] impaired, or hard of hearing person;** and (2) to place the **LEP [ or ], speech [ or hearing impaired person ] impaired, or hard of hearing person** on an equal footing with those who understand English. This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language.

Therefore, interpreters are obligated to apply their best skills and judgment to preserve faithfully the meaning of what is said in court, including the style and register of speech. Verbatim or literal oral interpretations are not appropriate when they distort the meaning of the source language, but every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

Interpreters should never interject their own words, phrases, or expressions. They should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions or dramatic gestures.

Sign language interpreters, however, *must* employ all of the visual cues that the language they are interpreting for requires, including facial expressions, body language, and hand gestures. Sign language interpreters, therefore, should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct.

The obligation to preserve accuracy includes the interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding. Interpreters should also demonstrate their professionalism by objectively analyzing any challenge to their performance.

**RULE 3: IMPARTIALITY AND AVOIDANCE OF CONFLICT OF INTEREST.**

**Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias or favoritism. Interpreters shall disclose any real or perceived conflict of interest.**

## Comment

Interpreters serve as officers of the court and their main duty in court proceedings is to serve the court. This is true regardless of whether the interpreter is publicly retained at government expense or retained privately at the expense of one of the parties.

Interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward any of the parties. Interpreters should maintain professional relationships with their clients and should not take an active part in any of the proceedings. The interpreter should discourage an LEP or speech **[ or hearing impaired party's ] impaired person or person with hearing loss's** personal dependence **on the interpreter.**

During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or **[ with ]** friends or relatives of any party, except in the discharge of their official functions. It is especially important that interpreters, who are often familiar with attorneys, courtroom staff, and law enforcement officers,

refrain from casual and personal conversations with anyone in court that may convey an appearance of a special relationship or partiality to any of the court participants.

The interpreter should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.

Should the interpreter become aware that a proceeding participant views the interpreter as having a bias or being biased, the interpreter should disclose that knowledge to the appropriate judicial authority and counsel.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. Before providing professional services in a matter, interpreters must disclose to all parties any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information. The following circumstances are presumed to create actual or apparent conflicts of interest for interpreters and should preclude them from serving in any proceeding in which:

1. they are a friend, associate, or relative of a party or counsel for a party involved in the proceedings;
2. they[ , ] or their spouse, child, or relative is a party to the proceeding or have a financial interest or any other interest that would be affected by the outcome of the proceeding;
3. they have been previously retained by a law enforcement agency to assist in the preparation of the criminal case at issue or have served in an investigative capacity for any party involved in the case; and
4. they have been involved in the choice of counsel or law firm for that case.

Interpreters should also disclose to the court and other parties when they have previously been retained for private employment by one of the parties in the case and should not serve in any matter in which payment for their services is contingent upon the outcome of the case.

An interpreter who is also an attorney should not serve in both capacities in the same matter. Similarly, attorneys, probation officers, investigators, police officers, sheriffs, therapists, social workers, advocates, and other professionals should not interpret in any judicial proceeding or any court support service in which they are professionally involved with a party to the matter.

#### **RULE 4: PROFESSIONAL Demeanor.**

**Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.**

##### **Comment**

Interpreters should know and observe established [ protocol ] protocols, rules, and procedures for delivering interpreting services. They should speak at a rate and volume that enables them to be heard and understood throughout the courtroom, but their presence should otherwise be as unobtrusive as possible. They should not draw undue or inappropriate attention to themselves and should dress in a manner that is consistent with the dignity of the proceedings and the court. Interpreters are encouraged to avoid personal or professional conduct that could discredit or be embarrassing to the court.

#### **RULE 5: CONFIDENTIALITY.**

**Interpreters shall protect the confidentiality of all privileged and other confidential information.**

##### **Comment**

Interpreters must protect and uphold the confidentiality of all privileged information obtained during the discharge of their duties. Privileged information refers to confidential information that is protected from disclosure by law or statute, as listed in 42 Pa.C.S. §§ 4415 and 4436 and § 103 of these Regulations. They must be familiar with and understand the rules applicable to the handling of privileged and confidential information. It is especially important that interpreters understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client. Interpreters must also refrain from repeating or disclosing information obtained in the course of their employment that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to an appropriate authority within the judiciary who *is not* a party in the proceeding and seek advice in regard to the potential conflict in professional responsibility.

#### **RULE 6: RESTRICTION FROM PUBLIC COMMENT.**

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

##### **Comment**

Even when communications are not privileged, interpreters should be mindful not to discuss a case while it is pending. An exemption to this rule would be if the interpreter is called upon to testify as a language expert. In such instances the interpreter should limit his or her opinion to strict matters of linguistic expertise, such as the meaning and usage of specific words or culturally bound terms. When called upon to testify in court, the interpreter should request a ruling by the court upon the propriety of testimony on confidential matters. Also, if a disciplinary complaint or lawsuit arising out of interpretation services is filed against an interpreter, he or she may testify about relevant communications.

#### **RULE 7: SCOPE AND LIMITATIONS OF PRACTICE.**

Interpreters shall limit themselves to interpreting, transliterating or **sight** translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting, transliterating or **sight** translating while serving as an interpreter.

##### **Comment**

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting, transliterating or **sight** translating only. They should not take a primary role in such communications and may take a secondary role only as necessary for assuring an accurate and faithful interpretation, transliteration or **sight** translation.

Interpreters may assume a secondary role when they find it necessary to speak directly to the court to seek assistance in performing their duties, *e.g.*, requesting that

speakers moderate their rate of communication or repeat or rephrase a statement, correcting an interpreting error, or notifying the court of their reservations about their ability to satisfy an assignment competently.

Interpreters should avoid activities that may be reasonably construed to constitute the practicing of law, *e.g.*, giving legal advice or answering parties' questions that would ordinarily be answered by an attorney. An interpreter may convey legal advice from an attorney to a person only while the attorney giving it is present.

Interpreters should not explain the purpose of forms and services or otherwise act as counselors, advisors, or advocates unless they are interpreting for someone who is acting in that official capacity. The interpreter may **sight** translate language on a form for a person who is filling out the form, but may not explain the form or its purpose for such a person.

Interpreters should not personally serve to perform official acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators, interviewers, probation officers, hearing officers, or counselors.

**RULE 8: ASSESSING AND REPORTING IMPEDIMENTS TO PERFORMANCE.**

**Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the court or other appropriate judicial authority.**

**Comment**

Interpreters should immediately notify the court if the communication mode or language of the LEP person cannot be readily interpreted or if the interpreter's language of expertise does not match that of the LEP person. They should also notify the court of any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (*e.g.*, too much noise in the courtroom, inability to hear the speaker or be heard by the LEP person, more than one person speaking at a time, or principals and witnesses speaking at a high rate of speed).

Sign language interpreters must ensure that they can both see and convey the full range of visual language elements necessary for communication, including facial expressions and body movement, as well as hand gestures.

Interpreters should inform the presiding officer of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. They should also recommend and encourage the use of team interpreting whenever necessary.

Interpreters should refrain from accepting a case if they feel the language and subject matter is likely to exceed their skills or capacities. Even competent and experienced interpreters may encounter cases in which routine proceedings suddenly involve technical or specialized terminology unfamiliar to them. Interpreters should feel no compunction about notifying the presiding officer if they feel unable to perform competently, due to lack of familiarity with terminology, preparation, or difficulty in understanding a witness or defendant.

Finally, interpreters should notify the court of any personal bias they may have involving any aspect of the proceedings which may prevent them from performing

their duties according to these rules. For example, an interpreter who has been the victim of a sexual assault may wish to be excused from interpreting in cases involving similar offenses.

**RULE 9: DUTY TO REPORT ETHICAL VIOLATIONS.**

**Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of these rules, or any other official policy governing court interpreting and legal translating.**

**Comment**

Because users of interpreting services frequently misunderstand the proper role of the interpreter, they may ask or expect the interpreter to perform duties or engage in activities that run counter to the provisions of these rules or other laws, regulations, or policies governing court interpreting. It is incumbent upon the interpreter to inform such persons of the interpreter's professional obligations. If after having been apprised of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should inform a supervisor, the judge, the court, or another official with jurisdiction over interpreter matters to resolve the situation. Interpreters should report any solicitation or effort by another to induce or encourage them to violate any law, any provision of these rules, or any other standard governing interpreting, transliteration or **sight** translating promulgated by the Judiciary.

**RULE 10: ACCEPTANCE OF COMPENSATION.**

Interpreters shall accept no remuneration, gifts, gratuities, or any other valuable consideration in excess of their authorized compensation in the performance of their official interpreting duties.

**Comment**

Interpreters should never accept any type of gifts, payment, or compensation other than their due payment for services rendered. They should reject any offers of favors, presents, tips (monetary or otherwise), or other acknowledgement as a "thank you" for services rendered. Neither should they accept invitations to events where their presence, admission, or participation can be construed as remuneration for professional services or assistance rendered in the course of the discharge of their duties. Interpreters should never be perceived as taking advantage of knowledge or information obtained in the performance of their official duties, or by their access to court records, facilities, or privileges, for their own or another's personal gain.

**RULE 11: PROFESSIONAL DEVELOPMENT.**

**Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.**

**Comment**

Interpreters must continually strive to increase their knowledge of the languages they work professionally, including past and current trends in technical, vernacular, and regional terminology, as well as their application within court proceedings. They should also keep abreast of all statutes, rules of court, and policies of the judiciary that relate to the performance of their professional duties.

An interpreter should seek to continually elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field.

**RULE 12: AGREEMENT TO ABIDE BY THESE RULES.**

Interpreters[, ] **and** transliterators [**and translators**] working for the Unified Judicial System of Pennsylvania accept and agree to be bound by these rules, and understand that appropriate sanctions may be imposed by

the ICP Administrator, hearing officer, or Court Administrator for willful violations.

**Comment**

Upon completion of all certification requirements, interpreters shall be sworn in and issued a certificate attesting that they have successfully completed all program requirements. At the same time they will be asked to sign a copy of these rules of conduct which will then be placed in their permanent file. They will also receive a copy of the program's disciplinary policy.

**Schedule G**

**Interpreting Fee Schedule**

Pursuant to 42 Pa.C.S. § 4411(d) and § 4431(d), the Court Administrator establishes the following reasonable fee schedule for onsite, video, and telephonic interpreting services rendered by certified and otherwise qualified interpreters in judicial proceedings and other court services. These fees apply to both foreign and sign language interpretation.

The compensation schedule is subject to periodic review by the Court Administrator.

**Onsite, Video, and Telephonic Interpreting Fee Schedule**

<i>Interpreter Classification</i>	<i>Hourly up to 3.5 Hours</i>		<i>Half &amp; Full Day</i>	
	<i>Hourly (2 hr. min.)</i>	<i>30 Minutes Increments (1/2 hourly rate)</i>	<i>Half Day (3.5 hrs.)</i>	<i>Full Day (7 hrs.)</i>
<b>Master</b>	<b>\$80</b>	<b>\$40</b>	<b>\$260</b>	<b>\$475</b>
<b>Certified</b>	<b>\$65</b>	<b>\$32.50</b>	<b>\$210</b>	<b>\$400</b>
<b>Qualified</b>	<b>\$45</b>	<b>\$22.50</b>	<b>\$140</b>	<b>\$270</b>
<b>Conditional</b>	<b>\$35</b>	<b>\$17.50</b>	<b>\$105</b>	<b>\$200</b>
<b>Registered</b>	<b>\$60</b>	<b>\$30</b>	<b>\$200</b>	<b>\$390</b>
<b>Rare or uncommon languages and interpreters from resource lists provided by the ICP</b>	<b>Interpreters in this category will be compensated based on their qualifications, experience, type of case, and language within the parameters of the compensation schedule and the guidelines.</b> <b>Note: Rare or uncommon languages are languages of low diffusion not listed in the ICP Roster.</b>			

**A. Onsite Interpreting Provisions**

**1. Assignments.** An assignment is the contracted timeframe for which the interpreter is retained regardless of the number of cases scheduled within that timeframe. For example, when interpreters are assigned to several cases at various courts in the same judicial district/county which are scheduled sequentially on the same day, that constitutes an assignment, and compensation will be based on the total time worked in that district that day. The two (2) hour minimum applies per assignment, not on a per case basis. A half-day consists of three and a half (3.5) hours, and a full day consists of seven (7) hours.

**2. Cancellation.** Cancellations are based on business days and exclude weekends and holidays.

**i. Interpreters who receive at least forty-eight (48) hours' advance notice of a cancellation, excluding weekends and holidays, are not entitled to a cancellation fee.**

**ii. Hourly, half, and one day assignments.** If cancellation occurs with less than forty-eight (48) hours' notice provided to the interpreter, excluding weekends and holidays, the cancellation fee shall

be equivalent to two (2) hours' pay based on the hourly rate and interpreter classification.

**iii. Multiple day assignments.** When the interpreter is hired for an assignment lasting two (2) or more days, if cancellation occurs with less than forty-eight (48) hours' notice provided to the interpreter, excluding weekends and holidays, the cancellation fee shall be equivalent to one (1) full day compensation for the first day and two (2) hours for each additional day based on interpreter classification. If a case ends before the contracted time (e.g., an interpreter is retained for a three (3) day trial, but the case settles after the first day), an interpreter will be entitled to two (2) hours pay for each canceled day.

**iv. Interpreters will be entitled to reimbursement of any incurred expenses in accordance with Section 4.**

**v. When the interpreter cancels an assignment, there will be no compensation.**

**3. Compensation, time extensions, and overtime.**

**i. Minimum compensation.** When hired at an hourly rate, interpreters are entitled to a two (2)

hour minimum guaranteed compensation per assignment based on the interpreter's credentialing level.

ii. Hourly Rate. The first two hours are paid according to the table above. After the second hour, compensation will be paid at half (1/2) the hourly rate in thirty (30) minute increments based on the interpreter credentialing level. Judicial districts are strongly encouraged to consider hiring at the half- or full-day rate when assignments are expected to go over two (2) hours and when hiring for more than one case.

iii. Half-day rate. The first three and a half (3.5) hours are paid according to the table above. Assignments that exceed three and a half (3.5) hours but are less than seven (7) hours long will be paid at half (1/2) the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

iv. Full-day rate. A full-day rate consists of seven (7) hours paid according to the table above.

v. Overtime. Overtime will be paid only when an assignment exceeds a full day (7 hours). Overtime compensation will be in hourly increments at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level.

vi. Assignments outside normal business hours (5 pm to 8 am). Assignments that occur outside of normal business hours will be paid at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level. A two (2) hour minimum will apply. Additional time will be paid at one and a half (1.5) times the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

#### 4. Mileage, parking, tolls, and travel.

i. Mileage will be paid at the prevailing rate in the county or court whenever the interpreter travels more than twenty-five (25) miles round trip to an assignment. If no mileage rate is set locally, mileage will be paid at the prevailing Internal Revenue Service rate. Tolls will be reimbursed with proof of payment (e.g., detailed bills evidencing payment, receipts, and/or canceled checks).

ii. Parking will be paid in full when no free parking exists within a five (5)-block radius of the assignment location. Parking will not be paid when free parking is provided.

iii. Travel time will be paid when the interpreter travels more than two (2) hours round trip from the interpreter's normal business address or location to an assignment. Travel time will be paid at half (1/2) the hourly compensation rate for the interpreter's classification.

iv. Travel by public transportation. If travel by bus, train, or plane is required, the interpreter is entitled to full reimbursement of travel costs. Courts are encouraged to make the necessary travel arrangements.

v. Overnight accommodations. If overnight hotel accommodations are required for the completion of an assignment, this expense is reimbursable to the interpreter. Courts are encouraged to make the necessary reservations themselves at a local hotel close to the assignment location. The interpreter is

also entitled to a per diem for overnight assignments based on the prevailing federal CONUS rates.

vi. Proof of payment (e.g., detailed bills evidencing payment, receipts, and/or canceled checks) must accompany all requests for reimbursement.

5. Interpreting Equipment. Interpreters are not allowed to charge for the use of their own interpreting equipment. Courts are encouraged to purchase interpreting equipment and make it available to interpreters.

#### B. Video and Telephonic Interpreting Provisions

1. Assignments. An assignment is the contracted timeframe for which the interpreter is retained regardless of the number of cases scheduled within that timeframe. For example, when interpreters are assigned to several cases at various courts in the same judicial district/county which are scheduled sequentially on the same day, that constitutes an assignment, and compensation will be based on the total time worked in that district that day. The two (2) hour minimum applies per assignment, not on a per case basis.

2. Cancellation. Cancellations are based on business days and exclude weekends and holidays.

i. Interpreters who receive at least forty-eight (48) hours' advance notice of a cancellation, excluding weekends and holidays, are not entitled to a cancellation fee.

ii. Hourly assignments. If cancellation occurs with less than forty-eight (48) hours' notice, excluding weekends and holidays, the cancellation fee shall be equivalent to two (2) hours' pay based on the hourly rate and interpreter classification.

iii. Half- and full-day assignments. If cancellation occurs with less than forty-eight (48) hours' notice, excluding weekends and holidays, the cancellation fee shall be equivalent to two (2) hours' pay based on the hourly rate and interpreter classification.

iv. When the interpreter cancels an assignment, there will be no compensation.

#### 3. Compensation, time extensions, and overtime.

i. Start time. The time at which the interpreter begins to receive payment for services rendered is when the interpreter connects remotely to the courtroom or is asked to be available, not the time when the proceeding actually begins (e.g., start time in the hearing notice), or when the judge takes the bench.

ii. Minimum compensation. When hired at an hourly rate, interpreters are entitled to a two (2) hour minimum guaranteed compensation per assignment based on the interpreter's credentialing level.

iii. Hourly rate. The first two hours are paid according to the table above. After the first two hours, compensation will be paid in thirty (30) minute increments at one-half (1/2) the hourly rate for the next one and a half (1.5) hours based on the interpreter's credentialing level. Judicial districts are strongly encouraged to consider hiring at the half- or full-day rate when assignments are expected to go over two (2) hours and when hiring for more than one case.

iv. Half-day rate. The first three and a half (3.5) hours are paid according to the table above. Assignments that exceed three and a half (3.5) hours but are less than seven (7) hours long will be paid at half (1/2) the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

v. Full-day rate. A full-day rate consists of seven (7) hours paid according to the table above.

vi. Overtime. Overtime will be paid only when an assignment exceeds a full day (7 hours). Overtime compensation will be in hourly increments, at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level.

vii. Remote assignments outside normal business hours (5 pm to 8 am). Remote assignments outside of normal business hours via video or phone will be paid at one and a half (1.5) times the hourly rate based on the interpreter's credentialing level. A two (2) hour minimum will apply. Additional time will be paid at one and a half (1.5) times the hourly rate in thirty (30) minute increments based on the interpreter's credentialing level.

#### 4. Time commitment.

i. Interpreters should be notified about the expected length of the assignment by the court (i.e., by the language access coordinator or assignment clerk) when contracted. This will be based on the best estimate available to the court at the time of hiring.

ii. Interpreters must remain available for the duration of the contracted time, including the first two hours when hired at the hourly rate unless they are released by the court prior to the expiration of their contracted time. When a case lasts less than two hours, interpreters must check with the language access coordinator or assignment clerk to see if they are needed elsewhere before being released.

iii. As a best practice, interpreters should allow at least thirty (30) minutes between cases when contracting to provide services remotely unless cases are scheduled sequentially in the same judicial district. This allows for a smooth transition between assignments.

iv. When reporting for a remote assignment, the interpreter must always advise the court if they have another matter scheduled after the expected time commitment they agreed to when hired for the case.

v. Under no circumstances will the interpreter leave an ongoing matter due to a scheduled conflict with an upcoming assignment without the consent of the presiding judicial officer. The interpreter must alert the presiding judicial officer of any possibility of a scheduling conflict and wait for the court to conclude the matter before withdrawing from the call. If necessary, the interpreter should be given an opportunity to inform their client for the next assignment that they are delayed.

vi. Any interpreter who intentionally leaves a video or telephonic assignment before the expiration of the agreed length of time for which the interpreter was contracted, without the consent of the presiding judicial officer, will not be compensated for any time worked on the case.

#### 5. Equipment considerations.

i. The interpreter shall have the necessary equipment, hardware, software, and internet broadband connection, to provide effective video and telephone interpretation and will maintain such equipment in proper working order. The equipment must be compatible with the various platforms and solutions used by judicial districts. The use of an Ethernet connection, headphones, and microphones for providing video remote interpretation is preferred and considered a best practice.

ii. A fast and secure wired connection is preferred for providing telephonic interpretation during both court proceedings and conference calls and when using a separate line to provide simultaneous interpretation during video calls. This is due to security and privacy concerns and to the unreliability and vulnerability of mobile devices and wireless signals. If a mobile wireless device is used, the interpreter must make sure they are in a location with a strong signal and are working within a secure network.

iii. Interpretation should be provided from a quiet location free of noise and distraction, preferably from a designated space in the interpreter's office or home. It is considered best practice to use neutral background and noise cancellation headphones. Video remote interpretation (VRI) should never be done from a vehicle or while driving.

iv. Interpretation should not be done over speakerphone when the interpreter is in a location that does not provide privacy and a quiet, secure environment.

v. Interpreters are not allowed to charge for the use of their own interpreting equipment.

[Pa.B. Doc. No. 21-1981. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 225—RULES OF EVIDENCE

[ 225 PA. CODE ART. VIII ]

Order Approving the Amendment of Pennsylvania Rule of Evidence 803(3); No. 887 Supreme Court Rules Doc.

Order

*Per Curiam*

*And Now*, this 18th day of November, 2021, upon the recommendation of the Committee on Rules of Evidence; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Evidence 803(3) is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2022.

## Annex A

## TITLE 225. RULES OF EVIDENCE

## ARTICLE VIII. HERESAY

**Rule 803. Exceptions to the Rule Against Hearsay—Regardless of Whether the Declarant Is Available as a Witness.**

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

**Rule 803(3). Then-Existing Mental, Emotional, or Physical Condition.**

(3) *Then-Existing Mental, Emotional, or Physical Condition.* A statement of the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the validity or terms of the declarant's will.

**Comment**

This rule is identical to F.R.E. 803(3). For the general inquiry that courts should undertake when contemplating application of this rule, see *Commonwealth v. Fitzpatrick*, 255 A.3d 452, 479-480 (Pa. 2021).

[ Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; Comment revised March 10, 2000, effective immediately; Comment revised May 16, 2001, effective July 1, 2001; amended November 2, 2001, effective January 1, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013; amended November 9, 2016, effective January 1, 2017; amended October 25, 2018, effective December 1, 2018.

**Committee Explanatory Reports:**

**Final Report explaining the March 23, 1999 technical revisions to the Comment for paragraph 25 published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999).**

**Final Report explaining the March 10, 2000 revision of the Comment for paragraph 25 published with the Court's Order at 30 Pa.B. 1641 (March 25, 2000).**

**Final Report explaining the May 16, 2001 revision of the Comment for paragraph 18 published with the Court's Order at 31 Pa.B. 2789 (June 2, 2001).**

**Final Report explaining the November 2, 2001 amendments to paragraph 6 published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).**

**Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 620 (February 2, 2013).**

**Final Report explaining the November 9, 2016 amendments to paragraph 6, 8, 10, and revision of the Comment for paragraph 7 and 9 published with the Court's Order at 46 Pa.B. 7436 (November 26, 2016).**

**Final Report explaining the October 24, 2018 amendments to paragraph 1 and 2 published with the Court's Order at 48 Pa.B. 7112 (November 10, 2018). ]**

## ADOPTION REPORT

## Amendment of Pa.R.E. 803(3)

On November 18, 2021, the Supreme Court amended Pennsylvania Rule of Evidence 803(3) concerning the hearsay exception for a statement of the declarant's then-existing mental, emotional, or physical condition. The Committee on Rules of Evidence has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, Comment. The statements contained herein are those of the Committee, not the Court.

In *Commonwealth v. Fitzpatrick*, 255 A.3d 452 (Pa. 2021), a victim left a note stating: "If something happens to me—JOE." The following day, the victim died in an ATV accident where her husband, Joe, was a passenger. The husband was charged with the victim's murder and the note was admitted into evidence for substantive purposes, *i.e.*, the truth of the matter, at the husband's trial pursuant to Pa.R.E. 803(3).

While the Court held that the portion of the note that evidenced the victim's state of mind qualified under the Pa.R.E. 803(3) hearsay exception, the note was nonetheless inadmissible because it also identified the defendant and implicated the defendant's state of mind. Preceding this holding, the Court stated:

[T]hat our cases concerning state of mind evidence have been inconsistent, which undoubtedly has caused some confusion for the bench and bar in this complex area of evidentiary law. Thus, to ensure clarity going forward, we set forth the general inquiry courts must undertake when contemplating the admissibility of out-of-court statements proffered to the court for admission as state of mind evidence.

*Fitzpatrick*, 255 A.3d at 479 (internal citation omitted). The general inquiry is set forth on pages 479-480 of the reported decision. The Committee believes it would be helpful to the bench and bar, as well as clear up the observed inconsistency in the prior application of this exception, if the Comment to Pa.R.E. 803(3) was amended to add reference to *Fitzpatrick*.

The following commentary has been removed from Pa.R.E. 803:

**Note:** Adopted May 8, 1998, effective October 1, 1998; Comment revised March 23, 1999, effective immediately; Comment revised March 10, 2000, effective immediately; Comment revised May 16, 2001, effective July 1, 2001; amended November 2, 2001, effective January 1, 2002; rescinded and replaced January 17, 2013, effective March 18, 2013; amended November 9, 2016, effective January 1, 2017; amended October 25, 2018, effective December 1, 2018.

**Committee Explanatory Reports:**

Final Report explaining the March 23, 1999 technical revisions to the Comment for paragraph 25 published with the Court's Order at 29 Pa.B. 1714 (April 3, 1999). Final Report explaining the March 10, 2000 revision of the Comment for paragraph 25 published with the Court's Order at 30 Pa.B. 1641 (March 25, 2000). Final Report explaining the May 16, 2001 revision of the Comment for paragraph 18 published with the Court's Order at 31 Pa.B. 2789 (June 2, 2001). Final Report explaining the November 2, 2001 amendments to paragraph 6 published with the Court's Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 620 (February 2, 2013). Final Report explaining the November 9, 2016 amendments to paragraph 6, 8, 10, and revision of the Comment for paragraph 7 and 9 published with the Court's Order at 46 Pa.B. 7436 (November 26, 2016). Final Report explaining the October 24, 2018 amendments to paragraph 1 and 2 published with the Court's Order at 48 Pa.B. 7112 (November 10, 2018).

\* \* \*

This amendment becomes effective January 1, 2022.

[Pa.B. Doc. No. 21-1982. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CH. 200 ]

#### Proposed Adoption of Pa.R.Civ.P. 244

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.Civ.P. 244 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

Karla M. Shultz, Counsel  
Civil Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9526  
civilrules@pacourts.us

All communications in reference to the proposal should be received by January 4, 2022. 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 Civil Procedural  
Rules Committee*

HONORABLE CHRISTINE A. WARD,  
*Chair*

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

*(Editor's Note: The following rule is proposed to be added and printed in regular type to enhance readability.)*

#### Rule 244. Advanced Communication Technology.

(a) *Definition.* "Advanced communication technology" shall mean any communication technology providing for two-way simultaneous communication of image and sound.

(b) *General Rule.*

(1) Unless otherwise prohibited by subdivision (c), proceedings may be conducted using advanced communication technology in accordance with local rule.

(2) Each judicial district shall promulgate a local rule identifying the proceedings that may be conducted via advanced communication technology in the judicial district and the procedures for using advanced communication technology.

(c) *Prohibition.* The use of advanced communication technology is prohibited for the following proceedings:

- (1) jury selection, unless the prospective jurors are located outside of the courthouse or judicial facility; and
- (2) jury trials.

#### Comment:

Subdivision (c)(1) addresses those instances when the judge is present in the courthouse and the potential jurors are in a remote location outside the courthouse or judicial facility. It is not intended to preclude the use of advanced communication technology when the judge is present in the courtroom and potential jurors are located in other rooms of the courthouse for social-distancing purposes.

#### REPORT

#### Proposed Adoption of Pa.R.Civ.P. 244

The Civil Procedural Rules Committee is considering proposing to the Supreme Court the adoption of Pennsylvania Rule of Civil Procedure 244 to govern the use of Advance Communication Technology in civil proceedings.

In July of 2021, the Committee received a report prepared by the Administrative Office of Pennsylvania Courts and the Pennsylvania Conference of State Trial Judges concerning the "continued use" of Advance Communications Technology ("ACT"). Given that the use of ACT in civil proceedings has been governed by procedural rule, the report made the following recommendations:

Unlike other procedural rules that expressly prohibit, *see, e.g.*, Pa.R.Crim.P. 119(A), or specifically authorize, *see, e.g.*, Pa.R.C.P. 1930.3, Pa.R.J.C.P. 128(C), 129(A)(1), 1129(A)(1), 1140(D), 1242(B)(4), 1406(A)(2), 1512(A)(3), 1608(E), and Pa.R.C.P.M.D.J. 215, the use of ACT in certain circumstances, the Pennsylvania Rules of Civil Procedure governing civil litigation are silent on the use of ACT in court proceedings. Out of necessity during the statewide and local judicial emergencies, trial courts have conducted civil proceedings by ACT, and in the process, have saved litigants, lawyers, and witnesses considerable travel time and expense and any associated inconvenience. The resulting time savings have enabled counsel to make more productive use of their available time and to devote their attention to other clients and pending matters. Judicial experience with remote proceedings has shown that many civil matters may be handled effectively and efficiently through the use of ACT.

Once the local judicial emergencies end, judges should retain the discretion to conduct certain civil proceedings by ACT in order to achieve continued savings for parties and their counsel. It is recommended that status/scheduling conferences, oral arguments on contested motions and petitions, and hear-



ings or non-jury trials featuring limited testimonial and documentary evidence, should continue to be conducted by ACT even after the declared judicial emergencies cease. The Task Force submits that jury trials, including the jury selection process, pre-trial conferences pursuant to Pa.R.C.P. 212.3, settlement conferences under Pa.R.C.P. 212.5, and bench trials featuring more involved testimony and evidence are best conducted in-person, and it is not recommended that those matters be handled routinely by ACT.<sup>1</sup>

To enable judges to conduct the recommended civil matters by ACT, it is suggested that the following changes to the Pennsylvania Rules of Civil Procedure be considered. In contrast to other statewide rules, Pennsylvania Rule of Civil Procedure No. 76 does not contain a definition of “advanced communication technology,” and it is recommended that Pa.R.C.P. 76 be amended to include the uniform definition proposed by the Task Force. While no statewide procedural rule prohibits the use of ACT in civil litigation, it is recommended that a specific Rule of Civil Procedure be adopted to expressly vest trial judges with the discretion to conduct civil proceedings, with the exception of jury trials, by ACT. Additionally, pursuant to the authority granted by Pa.R.C.P. 239.2, 239.3, 239.5, 239.6, and 239.7, judicial districts may promulgate local rules setting forth specific procedures governing the presentation and consideration of petitions, motions, preliminary objections, motions for judgment on the pleadings, and motions for summary judgment by ACT.

Remote Proceedings Task Force: Continued Use of Advanced Communication Technology (ACT) Following the Termination of Judicial Emergencies, at pp. 9-10 (June 2021) (footnote omitted). The report also recommended the use of ACT for the service of orders and filings.

The Committee proposes Pa.R.Civ.P. 244 to generally authorize the use of ACT in civil proceedings, with two express prohibitions, and be subject to parameters established by local rule. Each judicial district will be required to promulgate a local rule setting forth the proceedings for which ACT may be used and the procedures to request its use. The use of ACT would be prohibited for jury trials and jury selection when potential jurors are not located separately from the courthouse or judicial facility. The prohibition on the use of ACT for jury trials under this rule is not intended to prohibit the introduction of testimony through other permitted means. *See, e.g.*, 4017.1 (Video Deposition); Pa.R.Civ.P. 4020 (Use of Depositions at Trial).

Additional prohibitions suggested by the Task Force, including pre-trial conferences, Pa.R.Civ.P. 212.3, settlement conferences, Pa.R.Civ.P. 212.5, and bench trials were not included in the proposed rule. Based upon the observations of Committee members, the use of ACT for those proceedings did not appear to be less effective than when they are conducted in-person. Judges are able, or will be able, to evaluate witness credibility and weigh evidence in other proceedings using ACT; therefore, that ability should not be limited when conducting bench trials in civil proceedings, if permitted by local rule.

The Committee invites all comments, concerns, and suggestions.

[Pa.B. Doc. No. 21-1983. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CH. 1930 ]

#### Proposed Amendment of Pa.R.Civ.P. 1930.3

The Domestic Relations Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P. 1930.3 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be 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:

Bruce J. Ferguson, Counsel  
Domestic Relations Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
Fax: 717-231-9531  
domesticrules@pacourts.us

All communications in reference to the proposal should be received by January 4, 2022. 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 Domestic Relations  
Procedural Rules Committee*

JENNIFER P. BIERLY, Esq.,  
*Chair*

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

#### Rule 1930.3. [ **Testimony by Electronic Means** ] **Advanced Communication Technology.**

**[ With the approval of the court upon good cause shown, a party or witness may be deposed or testify by telephone, audiovisual or other electronic means at a designated location in all domestic relations matters. ]**

**(a) Definition. “Advanced Communication Technology” shall mean any communication technology providing for two-way simultaneous communication of image and sound.**

**(b) General Rule. Except for the proceedings set forth in subdivision (c), a court may conduct a**

**proceeding using Advanced Communication Technology in accordance with procedures established by local rule.**

**(c) Exceptions.**

**(1) A court shall not use Advanced Communication Technology for the following proceedings:**

**(i) Protection from Abuse. A final hearing as provided by 23 Pa.C.S. § 6107(a).**

**(ii) Protection of Victims of Sexual Violence or Intimidation. A final hearing as provided by 42 Pa.C.S. § 62A06(a).**

**(iii) Contempt Hearing. In a proceeding in which the court may incarcerate a party following a finding of contempt.**

**(2) A judicial district may exclude additional proceedings by local rule.**

**(d) Support Action.**

**(1) This rule does not preclude a court from utilizing telephone testimony as authorized by 23 Pa.C.S. § 4342(j) in a support action as set forth in subdivision (d)(2).**

**(2) The party or witness may only testify by telephone when the party or witness:**

**(i) cannot appear at the proceeding in person; and**

**(ii) does not have access to or the capability to utilize Advanced Communication Technology.**

**PUBLICATION REPORT**

**RULE PROPOSAL 186**

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing to the Supreme Court of Pennsylvania an amendment to Pennsylvania Rule of Civil Procedure 1930.3—Testimony by Electronic Means. The current rule expands 23 Pa.C.S. § 4342(j), which permits electronic testimony in support actions, to include authority for electronic testimony in all domestic relations actions. However, the current rule provides the court with the authority on a case-by-case basis by indicating for good cause shown. The proposed rule-making is in response to a rulemaking request regarding the use of Advance Communication Technology (ACT) in “family court” proceedings.

In July 2021, the Committee received a report prepared by the Administrative Office of Pennsylvania Courts and the Pennsylvania Conference of State Trial Judges concerning the “continued use” of ACT. The courts have used ACT extensively during the response to the COVID pandemic. As the use of ACT in domestic relations actions is governed by procedural rule, the report made the following overall recommendation, “[t]he Task Force examined Family Court matters generally, and concluded that ACT should be authorized to the greatest extent possible in Family Court matters, with only limited exceptions.” *Remote Proceedings Task Force: Continued Use of Advanced Communication Technology (ACT) Following the Termination of Judicial Emergencies*, at p. 12 (June 2021). The Task Force’s report identified specific proceedings in which it believed ACT appropriate and proposed rescinding Pa.R.Civ.P. 1930.3 upon adoption of a new ACT rule.

The Committee’s proposed amendment provides judicial districts with the general authority to use ACT in all domestic relations proceedings, e.g., support, custody,

divorce, protection from abuse (PFA), protection of victims of sexual violence or intimidation (PVSVI), with some exceptions. Excepted from ACT are contempt hearings and PFA and PVSVI final hearings. A judicial district may further limit ACT’s use by local rule. Despite the Task Force suggesting the rescission of Pa.R.Civ.P. 1930.3, the proposal maintains the rule but replaces the rule text and commentary in its entirety.

The proposed rule defines ACT “as any communication technology providing for two-way simultaneous communication of image and sound.” As defined, ACT would not permit the use of telephone testimony. However, as 23 Pa.C.S. § 4342(j) authorizes the use of telephone testimony by a party or witness in a support action, the proposed rule includes a provision for retaining telephone testimony in support actions, but only when the party or witness cannot appear in person and does not have the capability or the ability to use ACT.

The Committee invites all comments, concerns, and suggestions.

[Pa.B. Doc. No. 21-1984. Filed for public inspection December 3, 2021, 9:00 a.m.]

**Title 231—RULES OF  
CIVIL PROCEDURE**

**PART II. ORPHANS’ COURT RULES**

**[ 231 PA. CODE PART II ]**

**Proposed Adoption of Pa.R.O.C.P. 1.20**

The Orphans’ Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.O.C.P. 1.20 governing advanced communication technology 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

Pamela S. Walker, Counsel  
Orphans’ Court Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9546  
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by January 4, 2022. 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 Orphans’ Court  
Procedural Rules Committee*

## Annex A

**TITLE 231. RULES OF CIVIL PROCEDURE**  
**PART II. ORPHANS' COURT RULES**  
**CHAPTER I. PRELIMINARY RULES**

(*Editor's Note:* The following rule is proposed to be added and is printed in regular type to enhance readability.)

**Rule 1.20. Advanced Communication Technology.**

(a) *Definition.* "Advanced Communication Technology" shall mean any communication technology providing for two-way simultaneous communication of image and sound.

(b) *General Rule.* Court proceedings may be conducted using advanced communication technology in accordance with local rule.

**Comment:**

For local rulemaking, see Pa.R.J.A. 103(d).

**PUBLICATION REPORT****Proposed Adoption of Pa.R.O.C.P. 1.20**

The Orphans' Court Procedural Rules ("Committee") is considering proposing to the Supreme Court of Pennsylvania the adoption of Rule 1.20 of the Pennsylvania Rules of Orphans' Court Procedure ("Rules") in response to a rulemaking request. This proposal would add a new Rule incorporating a definition of "advanced communication technology" ("ACT") and delegating rule-making authority relative to the use of ACT to the judicial districts in the form of local rules.

*Background*

Currently, the Rules do not address the use of ACT in the orphans' courts. In July of 2021, the Rules Committees received a report prepared by the Administrative Office of Pennsylvania Courts and the Pennsylvania Conference of State Trial Judges concerning the "continued use" of ACT. Given that the use of ACT in other court proceedings has been governed by procedural rule, the report recommended a number of rule amendments generally enabling or expanding the use of ACT. The report describes a "continued use" because widespread ACT use was authorized by the Supreme Court of Pennsylvania pursuant to Pa.R.J.A. 1952(B)(2) as an emergency measure during the COVID-19 pandemic to maintain social distancing among participants while ensuring access to the courts. The report recommended a number of rule amendments generally enabling or expanding the use of ACT in the orphans' courts:

The Task Force recommends modest changes to the Orphans' Court Rules to assure that Orphans' Court judges may exercise broad discretion to conduct proceedings either permitting all parties and counsel to participate remotely using ACT or permitting some witnesses or parties to testify and participate remotely, while most participants are present in the courtroom. Specifically the Task Force recommends that, in the discretion of the Judge, the following types of proceedings may be conducted using ACT, either with all parties or some parties and witnesses participating remotely: status and scheduling conferences, pre-trial conferences, oral arguments on motions and petitions, relatively short record proceedings.

The Task Force also recommends that in the discretion of the local court, Orphans' Court proceedings

such as calling of the Audit List and other Rule Return dates may be scheduled to be conducted either in person, partly remotely, or wholly remotely using ACT for some litigants, attorneys, or other participants. Bench trials in the Orphans' Court, including contested guardianship matters, will contests, contested fiduciary matters, and termination of parental rights hearings will generally be best conducted in person in the courtroom. However, the Task Force recommends that the court have significant discretion to conduct such proceedings by ACT, either in whole or in part. In particular, it is expected that certain witnesses who live at a distance may be permitted to testify using ACT while proceedings are conducted in the courtroom, provided that no party is disadvantaged and all parties are able to see and hear the witness. The Task Force recommends the adoption of a definition of ACT in the Orphans' Court Rules, as a section within [R]ule 1.3, and also recommends a new Rule 1.9 granting discretion to the judge to permit the use of ACT in all types of Orphans' Court proceedings. The Task Force further recommends amendments to Orphans' Court Rules 2.5, 3.5, 14.3, 14.6, 14.9, 14.11, and 14.13, to clarify that electronic notice may be provided in appropriate circumstances and to make clear that certain guardianship proceedings may be conducted with the use of ACT.

Remote Proceedings Task Force: Continued Use of Advanced Communication Technology (ACT) Following the Termination of Judicial Emergencies, at pp. 15-16 (June 2021). Additionally, the report contained recommended rule amendments governing civil, family law, juvenile, and criminal proceedings, as well as those in magisterial district courts. Generally, those recommendations either broadly authorized the use of ACT or sought to remove present procedural restrictions. The report also recommended a uniform definition of ACT and the use of ACT for the service of orders and filings. As recommended by the report and described in greater detail below, this proposal would result in the applicability of ACT and numerous procedural and operational details being subject to the discretion of president judges and governed by local rule.

*Discussion*

Insofar as a significant aspect of applicability and procedures would be delegated to local rule, several observations can be made. First, the judicial districts have acquired significant experience with the use of ACT during the pandemic and, consequently, have existing local procedures and practices that work. At this juncture, there does not appear to be a need for further statewide procedures nor were further statewide procedures necessary for the use of ACT, where permitted by rule, prior to pandemic. Allowing local decision-making on the applicability of ACT accommodates resource and infrastructure limitations that may not be universal to all judicial districts. Thus, absent a demonstrated need, procedures would be left to local rule. Note, however, those practices governing the use of ACT would need to be codified into a local rule. See Pa.R.J.A. 103(d).

Second, it should be acknowledged that delegating applicability and procedures to local rule creates the opportunity for significant variation among judicial districts. This may be challenging to multi-district practitioners who must navigate not only among the various local procedures and types of proceedings that use ACT, but also the different technologies employed. If the extent of

any variation imposes undue burdens on practice of law or becomes “unacceptable” to the concept of a unified judicial system, the necessity of uniform statewide applicability and procedures may be revisited. Over time, a consensus may be reached on the best practice as it relates to applicability and procedures.

The Committee proposes a definition of ACT requiring two-way simultaneous communication of image and sound. This definition in proposed Pa.R.O.C.P. 1.20 seemed apt to capture the more frequently used modern technology, *e.g.*, WebEx, Zoom, Microsoft Teams. Myriad reasons in favor of a video component include more comprehensive witness identification, reduced opportunity for contemporaneous witness coaching, assuring a modicum of decorum, providing a means to evaluate credibility and demeanor, and detecting whether a witness’s responses are based upon contemporaneous, independent recollection or whether the witness is relying upon a writing to refresh recollection. *See* Pa.R.E. 612. Moreover, the technology for contemporaneous audiovisual communication has greatly improved, become more accessible, and, consequently, confidence in its use has increased.

An argument against requiring a visual component within the definition of ACT is that it may limit the use of ACT. For example, there may be geographical locations where necessary bandwidth does not exist or a participant does not have the technology for audio and visual communications. The merit of these arguments is acknowledged, but the preferred alternative would be for the participant to either appear in court or appear from a location where the proponent of the testimony can provide audio and visual communications, *e.g.*, the attorney’s office. Moreover, dropping down to a form of communications that only has an audio component could be seen as a step back from the successful use of technology during the pandemic. Nonetheless, the use of audio-only technology was accepted in some circumstances prior to the pandemic.

While the report recommends that proposed rule amendments “make clear that certain guardianship proceedings may be conducted with the use of ACT,” insofar as the proposed new Rule broadly permits court proceedings to be conducted using ACT in accordance with local rule, the Committee did not find it necessary to explicitly include guardianship proceedings. Such proceedings are necessarily included within the scope of the proposed new Rule and may be included or excluded as established by local rule. The report also recommended study of the use of ACT for the service of orders and filings, other than original process. Presumably, the form of ACT for service would rely upon the report’s proffered definition of “electronic communication.” While the Guardianship Tracking System generates certain electronic notices in lieu of traditional service methodologies, the Committee believes this is occurring outside the scope of ACT as proposed and is not addressing the electronic service of orders and filings at this time.

#### *Proposed Rule*

Proposed Rule 1.20 adds a definition of ACT for use in the orphans’ courts that requires two-way simultaneous communication of image and sound. It also gives wide latitude for a judicial district to promulgate local rules for the use of ACT in the orphans’ courts. The Committee invites all comments, concerns, and suggestions.

[Pa.B. Doc. No. 21-1985. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CH. 1 ]

#### Proposed New Pa.R.J.C.P. 160.1 and 1160.1

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania new Pennsylvania Rules of Juvenile Court Procedure 160.1 and 1160.1 to provide for statewide judicial access to limited information contained in the Common Pleas Case Management System related to dependency and delinquency proceedings for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

Daniel A. Durst, Chief Counsel  
 Juvenile Court Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9541  
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by January 11, 2022. 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 Juvenile Court  
 Procedural Rules Committee*

JUDGE ALICE BECK DUBOW,  
*Chair*

#### Annex A

### TITLE 237. JUVENILE RULES

#### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 1. GENERAL PROVISIONS

#### PART C. RECORDS

#### PART C(1). ACCESS TO JUVENILE RECORDS

*(Editor’s Note:* The following rules are proposed to be added and printed in regular type to enhance readability.)

#### **Rule 160.1. Judicial Identification of Delinquency and Dependency Cases.**

(a) *Delinquency.*

(1) A judge presiding over a delinquency proceeding shall have statewide access to the Common Pleas Case Management System for the purpose of identifying other delinquency cases or dependency cases involving a participant in the proceeding.

(2) The information available is limited to docket number, participants, presiding judge, and county.

(b) *Custody.*

(1) A judge presiding over a custody proceeding shall have statewide access to the Common Pleas Case Management System for the purpose of identifying delinquency cases involving a participant in the proceeding.

(2) The information available is limited to docket number, participants, presiding judge, and county.

**Comment**

Developed by the Administrative Office of Pennsylvania Courts, the Common Pleas Case Management System (CPCMS) is a comprehensive statewide system that contains docketing information for dependency and delinquency court cases throughout Pennsylvania. This rule is intended to provide judges in delinquency and custody proceedings with statewide access to CPCMS to identify current and closed cases involving the same participant in the proceeding before the court. After obtaining the CPCMS information, the judge may contact the clerk of records in the relevant judicial district to access the official court record if additional information is needed.

This rule is not intended to replace or impede judicial access to case records pursuant to Pa.R.J.C.P. 160. Nor is this rule intended as a substitute for disclosure by the participants or inquiry of the county agency.

**Subpart B. DEPENDENCY MATTERS****CHAPTER 11. GENERAL PROVISIONS****PART C. RECORDS****PART C(1). ACCESS TO JUVENILE COURT RECORDS****Rule 1160.1. Judicial Identification of Delinquency and Dependency Cases.**(a) *Dependency.*

(1) A judge presiding over a dependency proceeding shall have statewide access to the Common Pleas Case Management System for the purpose of identifying delinquency cases or other dependency cases involving a participant in the proceeding.

(2) The information available is limited to docket number, participants, presiding judge, and county.

(b) *Custody.*

(1) A judge presiding over a custody proceeding shall have statewide access to the Common Pleas Case Management System for the purpose of identifying dependency cases involving a participant in the proceeding.

(2) The information available is limited to docket number, participants, presiding judge, and county.

**Comment**

Developed by the Administrative Office of Pennsylvania Courts, the Common Pleas Case Management System (CPCMS) is a comprehensive statewide system that contains docketing information for dependency and delinquency court cases throughout Pennsylvania. This rule is intended to provide judges in dependency and custody proceedings with statewide access to CPCMS to identify current and closed cases involving the same participant in the proceeding before the court. After obtaining the CPCMS information, the judge may contact the clerk of courts in the relevant judicial district to access the official court record if additional information is needed.

This rule is not intended to replace or impede judicial access to case records pursuant to Pa.R.J.C.P. 1160. Nor is this rule intended as a substitute for disclosure by the participants or inquiry of the county agency.

**REPORT****Proposed New Pa.R.J.C.P. 160.1 and 1160.1**

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court new Pennsylvania Rules of Juvenile Court Procedure 160.1 and 1160.1 to provide for statewide judicial access to limited information contained in the Common Pleas Case Management System (CPCMS) related to dependency and delinquency proceedings.

CPCMS is a comprehensive statewide system that contains docketing information for dependency and delinquency court cases throughout Pennsylvania. Presently, only judges presiding over dependency or delinquency cases have access to information contained in CPCMS and that access is limited to cases in the county where the judges sit. Judges do not have access to case information in other counties. Further, judges presiding over custody cases, but not dependency or delinquency cases, do not have access to CPCMS information even for cases within their county. *Cf.*, 23 Pa.C.S. § 5328 (factors to consider when awarding custody).

The Committee received a request to provide statewide judicial access to CPCMS to ascertain whether the parties or child may have open or closed delinquency and dependency cases in other counties. Preliminarily, the Committee considered the need for such access. In custody proceedings, the parties are required to disclose whether they have been involved with county agencies and certain delinquency adjudications. *See* Pa.R.Civ.P. 1915.3-2; 23 Pa.C.S. § 5329. Further, in delinquency and dependency matters, ostensibly the juvenile probation office and the county agency would be able to access statewide information at least within their respective fields.

Notwithstanding these alternative sources of information, CPCMS may provide more accurate information than self-reporting by the parties in custody matters. Further, CPCMS may provide that information more expeditiously than relying upon the juvenile probation office and the county agency in delinquency and dependency matters, respectively, especially when emergent matters arise. Additionally, access to statewide information would provide judges the opportunity to coordinate open cases in multiple counties. However, any access would be limited to judges presiding over custody, delinquency, or dependency matters.

Believing there to be merit in statewide judicial access to CPCMS, the Committee next considered the extent of information that should be made available upon query. Initially, the Committee recognized that any proposed rule providing access to CPCMS should not displace the operation of other rules governing access to juvenile court records. *See, e.g.*, Pa.R.J.C.P. 160 & 1160. Instead, the operation of the proposed rules would permit judicial inquiry of CPCMS of participants in the current case and the return of limited information indicating any docket number, participants, presiding judge, and county in other open and closed cases. Based upon that information, the judge can decide whether to inquire further of the parties or to access those juvenile court records.

There are two additional aspects of these proposed rules. First, the rules would simply permit access to CPCMS to query for other cases involving the same participants. The rules do not require such a query. Second, the rules do not address the disclosure of the query results to the parties because the results in of themselves have no evidentiary value. The results merely indicate that a party was a participant in another case;

they disclose nothing about the records or outcome of the other case. The access and disclosure of further case details are outside the scope of this proposal.

The Committee invites all comments, concerns, and suggestions.

[Pa.B. Doc. No. 21-1986. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CHS. 1 AND 11 ]

#### Proposed Amendment of Pa.R.J.C.P. 140 and 1140

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rules of Juvenile Court Procedure 140 and 1140 concerning the use of Advance Communications Technology in juvenile court proceedings 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be 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, Chief Counsel  
 Juvenile Court Procedural Rules Committee  
 Supreme Court of Pennsylvania  
 Pennsylvania Judicial Center  
 PO Box 62635  
 Harrisburg, PA 17106-2635  
 FAX: 717-231-9541  
 juvenilerules@pacourts.us

All communications in reference to the proposal should be received by January 4, 2022. 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 Juvenile Court  
 Procedural Rules Committee*

JUDGE ALICE BECK DUBOW,  
*Chair*

#### Annex A

#### TITLE 237. JUVENILE RULES

#### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 1. GENERAL PROVISIONS

#### PART A. BUSINESS OF COURTS

#### Rule 140. Bench Warrants for Failure to Appear at Hearings.

[ A. ] (a) *Issuance of [ warrant ] Warrant.*

(1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

(2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

[ B. ] (b) *Entry of [ warrant information ] Warrant Information.* Upon being notified by the court, the juvenile probation officer or other court designee shall enter or request that a law enforcement officer enter the bench warrant in all appropriate registries.

[ C. ] (c) *Juvenile.*

1) *Where to [ take the juvenile ] Take the Juvenile.*

[ a ] (i) When a juvenile is taken into custody pursuant to a bench warrant, the juvenile shall [ **be taken** ] **appear**, without unnecessary delay [ **to** ], **before** the judge who issued the warrant or a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

[ b ] (ii) If the juvenile [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer, the juvenile shall be released unless:

[ i ] (A) the warrant specifically orders detention of the juvenile; or

[ ii ] (B) there are circumstances learned at the time of the surrender or apprehension that warrant detention of the juvenile.

[ c ] (iii) If a juvenile is detained, the juvenile shall be detained in a detention facility or other facility designated in the bench warrant by the judge pending a hearing.

2) *Prompt [ hearing ] Hearing.*

[ a ] (i) If a juvenile is detained, the juvenile shall [ **be brought** ] **appear** before the judge who issued the warrant, a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants, or an out-of-county judge or juvenile court hearing officer pursuant to [ **paragraph (C)(4)** ] **subdivision (c)(4)** within seventy-two hours.

[ b ] (ii) If the juvenile [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer within this time, the juvenile shall be released.

3) *Notification of [ guardian ] Guardian.* If a juvenile is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the juvenile's guardian of the juvenile's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-[ county custody ] County Custody.*

[ a ] (i) If a juvenile is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

[ b ] (ii) Arrangements to transport the juvenile shall be made immediately.

[ c ] (iii) If transportation cannot be arranged immediately, then the juvenile shall [ **be taken** ] **appear**,

without unnecessary delay [ **to** ], **before** a judge or juvenile court hearing officer of the county where the juvenile is found.

[ **d** ] (iv) The judge or juvenile court hearing officer will identify the juvenile as the subject of the warrant, decide whether detention is warranted, and order or recommend that arrangements be made to transport the juvenile to the county of issuance.

5) *Time [ requirements ] Requirements.* The time requirements of Rules 240, 391, 404, 510, and 605 shall be followed.

[ **D.** ] (d) *Witnesses.*

1) *Where to [ take the witness ] Take the Witness.*

[ **a** ] (i) When a witness is taken into custody pursuant to a bench warrant, the witness shall [ **be taken** ] **appear**, without unnecessary delay [ **to** ], **before** the judge who issued the warrant or a judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

[ **b** ] (ii) If the witness [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer, the witness shall be released unless the warrant specifically orders detention of the witness.

[ **c** ] (iii) A motion for detention as a witness may be filed [ **anytime** ] **any time** before or after the issuance of a bench warrant. The judge may order or the juvenile court hearing officer may recommend detention of the witness pending a hearing.

[ **1** ] (A) *Minor.* If a detained witness is a minor, the witness shall be detained in a detention facility.

[ **2** ] (B) *Adult.* If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt [ hearing ] Hearing.*

[ **a** ] (i) If a witness is detained pursuant to [ **paragraph (D)(1)(c)** ] **subdivision (d)(1)(iii)** or brought back to the county of issuance pursuant to [ **paragraph (D)(4)(f)** ] **subdivision (d)(4)(vi)**, the witness shall [ **be brought** ] **appear** before the judge or juvenile court hearing officer by the next business day.

[ **b** ] (ii) If the witness [ **is not brought** ] **does not appear** before a judge or juvenile court hearing officer within this time, the witness shall be released.

3) *Notification of [ guardian ] Guardian.* If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-[ county custody ] County Custody.*

[ **a** ] (i) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

[ **b** ] (ii) The witness shall [ **be taken** ] **appear**, without unnecessary delay and within the next business day [ **to** ], **before** a judge or juvenile court hearing officer of the county where the witness is found.

[ **c** ] (iii) The judge or juvenile court hearing officer will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order or recommend that arrangements be made to transport the witness to the county of issuance.

[ **d** ] (iv) Arrangements to transport the witness shall be made immediately.

[ **e** ] (v) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

[ **i** ] (A) *Minor.* If the witness is a minor, the witness may be detained in an out-of-county detention facility.

[ **ii** ] (B) *Adult.* If the witness is an adult, the witness may be detained in an out-of-county jail.

[ **f** ] (vi) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

[ **g** ] (vii) If the time requirements of this paragraph are not met, the witness shall be released.

[ **E.** ] (e) *Advanced [ communication technology ] Communication Technology.* A court may utilize advanced communication technology pursuant to Rule 129 for **the appearance** of a juvenile or a witness unless good cause is shown otherwise.

[ **F.** ] (f) *Return & [ execution of the warrant for juveniles and witnesses ] Execution of the Warrant for Juveniles and Witnesses.*

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge or juvenile court hearing officer designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

5) Once the warrant is vacated, the juvenile probation officer or other court designee shall remove or request that a law enforcement officer remove the bench warrant in all appropriate registries.

#### Comment

Pursuant to [ **paragraph (A)** ] **subdivision (a)**, the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under [ **paragraph (A)(1)** ] **subdivision (a)(1)**, the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the juvenile or witness may abscond or may not attend or be brought to a hearing is

not sufficient evidence for a bench warrant. This rule, however, does not prohibit probation from recommending detention for a juvenile. The normal rules of procedure in these rules are to be followed if a juvenile is detained. See Chapter Two, Part D.

Pursuant to [ **paragraph (C) ] subdivision (c)**, the “juvenile” is the subject of the delinquency proceedings. When a witness is a child, the witness is referred to as a “minor.” This distinction is made to differentiate between children who are alleged delinquents and children who are witnesses. See [ **paragraph (C) ] subdivision (c)** for alleged delinquents and [ **paragraph (D) ] subdivision (d)** for witnesses. See also Rule 120 for definition of “juvenile” and “minor.”

Pursuant to [ **paragraph (C)(1)(a) ] subdivision (c)(1)(i)**, the juvenile is to [ **be taken** ] immediately [ **to** ] **appear before** the judge who issued the bench warrant or a judge or juvenile court hearing officer designated by the President Judge of that county to hear bench warrants. This provision allows the judge or juvenile court hearing officer the discretion to postpone a hearing, for example, the adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the juvenile. If taken into custody on the same day, the juvenile is to [ **be brought** ] immediately **appear** before the court for the hearing. However, pursuant to [ **paragraph (C)(1)(b) ] subdivision (c)(1)(ii)**, if a bench warrant specifically provides that the juvenile may be detained in a detention facility, or there are circumstances apparent at the time of the surrender or apprehension that merit detention of the juvenile, the juvenile may be detained without having to [ **be brought** ] **appear** before the judge or juvenile court hearing officer until a hearing within seventy-two hours under [ **paragraph (C)(2)(a) ] subdivision (c)(2)(i)**. The juvenile is not to languish in a detention facility. Pursuant to this paragraph, if a hearing is not held promptly, the juvenile is to be released. See [ **paragraph (C)(1)(b) ] subdivision (c)(1)(b)**.

At the seventy-two hour hearing, the judge or juvenile court hearing officer may determine that the juvenile willfully failed to appear and may continue the detention of the juvenile until the rescheduled hearing. If the juvenile is detained, the rescheduled hearing is governed by the time requirements provided elsewhere in these rules. See Rules 240, 391, 404, 510 and 605.

Under [ **paragraphs (C)(2) and (C)(4) ] subdivisions (c)(2) and (c)(4)**, a juvenile taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the juvenile is found. See Rule [ **240(C) ] 240(c)**.

Pursuant to [ **paragraph (C)(4) ] subdivision (c)(4)**, the juvenile may be detained out-of-county until transportation arrangements can be made.

Pursuant to [ **paragraph (C)(5) ] subdivision (c)(5)**, the time requirements of all other rules are to apply to juveniles who are detained. See, e.g., Rules 240, 391, 404, 510, and 605.

Pursuant to [ **paragraph (D)(1)(a) ] subdivision (d)(1)(i)**, the witness is to [ **be taken** ] **appear** immediately [ **to** ] **before** the judge who issued the bench warrant or a judge or juvenile court hearing officer designated by the President Judge of that county to hear

bench warrants. This provision allows the judge or juvenile court hearing officer the discretion to postpone a hearing, for example, an adjudicatory hearing, until later in the same day while the police officer, sheriff, or juvenile probation officer retrieves the witness. The witness is to [ **be brought** ] **appear** immediately before the court for the hearing. However, pursuant to [ **paragraph (D)(1)(b) ] subdivision (d)(1)(ii)**, if the judge or juvenile court hearing officer is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to [ **paragraph (D)(1)(c) ] subdivision (d)(1)(iii)**, a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to [ **paragraph (D)(2) ] subdivision (d)(2)** is to be held by the next business day or the witness is to be released. See [ **paragraph (D)(2)(b) ] subdivision (d)(2)(ii)**.

At the hearing pursuant to [ **paragraph (D)(2)(a) ] subdivision (d)(2)(i)**, the judge or juvenile court hearing officer may determine that the witness willfully failed to appear and find or recommend that the witness is in contempt of court, or that the witness is in need of protective custody. If the judge or juvenile court hearing officer has made one of these findings, the judge may continue the detention of the witness until the rescheduled hearing. The judge or juvenile court hearing officer should schedule the hearing as soon as possible. In any event, if the witness is detained, the rescheduled hearing must be conducted by the specific time requirements provided elsewhere in these rules. See Rules 240, 391, 404, 510 and 605.

Pursuant to [ **paragraph (D)(4)(b) ] subdivision (d)(4)(ii)**, a witness is to [ **be brought** ] **appear** before an out-of-county judge or juvenile court hearing officer by the next business day unless the witness can [ **be brought** ] **appear** before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to [ **be brought** ] **appear** before the court by the next business day. See [ **paragraph (D)(4)(f) ] subdivision (d)(4)(vi)**.

Pursuant to [ **paragraph (F)(2) ] subdivision (f)(2)**, the bench warrant is to be returned to the judge who issued the warrant or to the judge or juvenile court hearing officer designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. See [ **paragraph (F)(3) ] subdivision (f)(3)**.

Pursuant to [ **paragraph (F)(4) ] subdivision (f)(4)**, the bench warrant is to be vacated after the return of the warrant is executed. “Vacated” is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

Pursuant to [ **paragraph (F)(5) ] subdivision (f)(5)**, once the warrant is vacated, the juvenile probation officer, other court designee, or law enforcement officer is to remove the warrant from all appropriate registries so the juvenile is not taken into custody on the same warrant if the juvenile is released.

See 42 Pa.C.S. § 4132 for punishment of contempt for juveniles and witnesses.



If there is a bench warrant issued, juvenile court hearing officers may hear cases in which the petition alleges only misdemeanors. *See* Rule 187(A)(2) and (3). The purpose of the hearing for juveniles pursuant to [ **paragraph (C)(2)(a)** ] **subdivision (c)(2)(i)** or the hearing for witnesses pursuant to [ **paragraph (D)(2)(a)** ] **subdivision (d)(2)(i)** is to determine if the juvenile or witness willfully failed to appear and if continued detention is necessary.

Pursuant to Rule 191, the juvenile court hearing officer is to submit his or her findings and recommendation to the court. In bench warrant cases, the juvenile court hearing officer should immediately take his or her recommendation to the judge so the judge can make the final determination of whether the juvenile or witness should be released. *See* Rule 191(D).

If the findings and recommendation are not taken immediately to the judge, the juvenile court hearing officer is to submit the recommendation within one business day. *See* Rule 191(C).

[ **Official Note: Rule 140 adopted February 26, 2008, effective June 1, 2008. Amended September 30, 2009, effective January 1, 2010. Amended April 21, 2011, effective July 1, 2011. Amended September 20, 2011, effective November 1, 2011. Amended April 6, 2017, effective September 1, 2017. Amended May 4, 2018, effective July 1, 2018.** ]

**Committee Explanatory Reports:**

**Final Report explaining the provisions of Rule 140 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).**

**Final Report explaining the amendments to Rule 140 with the Court's Order at 39 Pa.B. 6029 (October 17, 2009).**

**Final Report explaining the amendments to Rule 140 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).**

**Final Report explaining the amendments to Rule 140 with the Court's Order at 41 Pa.B. 5355 (October 8, 2011).**

**Final Report explaining the amendments to Rule 140 published with the Court's Order at 47 Pa.B. 2313 (April 22, 2017).**

**Final Report explaining the amendments to Rule 140 published with the Court's Order at 48 Pa.B. 2939 (May 19, 2018).** ]

**Subpart B. DEPENDENCY MATTERS**

**CHAPTER 11. GENERAL PROVISIONS**

**PART A. BUSINESS OF COURTS**

**Rule 1140. Bench Warrants for Failure to Appear.**

[ **A.** ] **(a)** *Issuance of Warrant.*

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

3) The judge shall not issue an arrest warrant for a dependent child who absconds.

[ **B.** ] **(b)** *Party.*

1) *Where to Take the Party.*

[ **a** ] **(i)** When a party is taken into custody pursuant to a bench warrant, the party shall [ **be taken** ] **appear**, without unnecessary delay [ **to** ], **before** the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

[ **b** ] **(ii)** If the party [ **is not brought** ] **does not appear** before a judge, the party shall be released unless the warrant specifically orders detention of the party.

[ **c** ] **(iii)** If the warrant specifically orders detention of a party, the party shall be detained pending a hearing.

[ **i** ] **(A)** *Minor.* If the party is a minor, the party shall be detained in a shelter care facility or other placement as deemed appropriate by the judge.

[ **ii** ] **(B)** *Adult.* If the party is an adult, the witness shall be detained at the county jail.

2) *Prompt Hearing.*

[ **a** ] **(i)** If a party is detained pursuant to specific order in the bench warrant, the party shall [ **be brought** ] **appear** before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to [ **paragraph (B)(4)** ] **subdivision (b)(4)** within seventy-two hours.

[ **b** ] **(ii)** If a party [ **is not brought** ] **does not appear** before a judge within this time, the party shall be released.

3) *Notification of Guardian.* If a party is a child and is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the child's guardian of the child's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-County Custody.*

[ **a** ] **(i)** If a party is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

[ **b** ] **(ii)** Arrangements to transport the party shall be made immediately.

[ **c** ] **(iii)** If transportation cannot be arranged immediately, then the party shall [ **be taken** ] **appear**, without unnecessary delay [ **to** ], **before** a judge of the county where the party is found.

[ **d** ] **(iv)** The judge will identify the party as the subject of the warrant, decide whether detention is warranted, and order that arrangements be made to transport the juvenile to the county of issuance.

5) *Time Requirements.* The time requirements of Rules 1242, 1404, 1510, and 1607 shall be followed.

[ **C.** ] **(c)** *Witnesses.*

1) *Where to Take the Witness.*

[ **a** ] **(i)** When a witness is taken into custody pursuant to a bench warrant, the witness shall [ **be taken** ] **appear**, without unnecessary delay [ **to** ], **before** the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

[ b ] (ii) If the witness [ **is not brought** ] **does not appear** before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.

[ c ] (iii) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.

[ i ] (A) *Minor*. If a detained witness is a minor, the witness shall be detained in a shelter care facility or other placement as deemed appropriate by the judge.

[ ii ] (B) *Adult*. If a detained witness is an adult, the witness shall be detained at the county jail.

2) *Prompt Hearing*.

[ a ] (i) If a witness is detained pursuant to [ **paragraph (C)(1)(c)** ] **subdivision (c)(1)(iii)** or brought back to the county of issuance pursuant to [ **paragraph (C)(4)(f)** ] **subdivision (c)(4)(vi)**, the witness shall [ **be brought** ] **appear** before the judge by the next business day.

[ b ] (ii) If the witness [ **is not brought** ] **does not appear** before a judge within this time, the witness shall be released.

3) *Notification of Guardian*. If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) *Out-of-County Custody*.

[ a ] (i) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

[ b ] (ii) The witness shall [ **be taken** ] **appear**, without unnecessary delay and within the next business day [ **to** ], **before** a judge of the county where the witness is found.

[ c ] (iii) The judge will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order or recommend that arrangements be made to transport the witness to the county of issuance.

[ d ] (iv) Arrangements to transport the witness shall be made immediately.

[ e ] (v) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

[ i ] (A) *Minor*. If the witness is a minor, the witness may be detained in an out-of-county shelter care facility or other placement as deemed appropriate by the judge.

[ ii ] (B) *Adult*. If the witness is an adult, the witness may be detained in an out-of-county jail.

[ f ] (vi) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

[ g ] (vii) If the time requirements of this paragraph are not met, the witness shall be released.

[ D. ] (d) *Advanced Communication Technology*. A court may utilize advanced communication technology pursuant to Rule 1129 unless good cause is shown otherwise.

[ E. ] (e) *Return & Execution of the Warrant for Parties and Witnesses*.

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

**Comment**

Pursuant to [ **paragraph (A)** ] **subdivision (a)**, the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under [ **paragraph (A)(1)** ] **subdivision (a)(1)**, the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the party or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. The normal rules of procedure in these rules are to be followed if a juvenile is detained. *See* Chapter Twelve.

[ **Paragraph (A)(3)** ] **Subdivision (a)(3)** does not preclude the issuance of a bench warrant for a case in which the child is subject to the jurisdiction of the dependency and delinquency court, see Rule 141 (Bench Warrants for Absconders), or an order for protective custody. Nor does the paragraph preclude judicial inquiry into efforts to locate a missing dependent child.

In [ **paragraphs (B)(1)(c)(i), (C)(1)(c)(i), & (C)(4)(e)(i)** ] **subdivisions (b)(1)(iii)(A), (c)(1)(iii)(A), & (c)(4)(v)(A)**, "other placement as deemed appropriate by the judge" does not include a detention facility if a child is only alleged to be dependent because the use of detention facilities for dependent children is strictly prohibited. *See* 42 Pa.C.S. § 6302 & 6327(e).

Under [ **paragraphs (B)(2) and (B)(4)** ] **subdivisions (b)(2) and (b)(4)**, a party taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the party is found. *See* Rule 1242(D).

Pursuant to [ **paragraph (B)(4)** ] **subdivision (b)(4)**, the party may be detained out-of-county until transportation arrangements can be made.

Pursuant to [ **paragraph (C)(4)(b)** ] **subdivision (c)(4)(ii)**, a witness is to [ **be brought** ] **appear** before an out-of-county judge by the next business day unless

the witness can be [ **brought** ] **appear** before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to [ **be brought** ] **appear** before the judge who issued the bench warrant by the next business day. See [ **paragraph (C)(4)(f)** ] **subdivision (c)(4)(vi)**.

Pursuant to [ **paragraph (E)(4)** ] **subdivision (e)(4)**, the bench warrant is to be vacated after the return of the warrant is executed so the party or witness is not taken into custody on the same warrant if the party or witness is released. “Vacated” is to denote that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

See 42 Pa.C.S. § 4132 for punishment of contempt for children and witnesses.

Throughout these rules, the “child” is the subject of the dependency proceedings. When a witness or another party is under the age of eighteen, the witness or party is referred to as a “minor.” When “minor” is used, it may include a child. This distinction is made to differentiate between children who are alleged dependents and other minors who are witnesses. See also Rule 1120 for the definitions of “child” and “minor.”

**[ Official Note: Rule 1140 adopted March 19, 2009, effective June 1, 2009. Amended April 21, 2011, effective July 1, 2011. Amended April 23, 2018, effective July 1, 2018.**

***Committee Explanatory Reports:***

**Final Report explaining the provisions of Rule 1140 published with the Court’s Order at 39 Pa.B. 1614 (April 4, 2009). Final Report explaining the amendments to Rule 1140 published with the Court’s Order at 41 Pa.B. 2319 (May 7, 2011). Final Report explaining the amendments to Rule 1140 published with the Court’s Order at 48 Pa.B. 2615 (May 5, 2018). ]**

**REPORT**

**Proposed Amendment of Pa.R.J.C.P. 140 & 1140**

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pennsylvania Rules of Juvenile Court Procedure 140 and 1140 in response to a rulemaking request regarding the use of Advance Communication Technology (“ACT”) in juvenile court proceedings.

In July of 2021, the Committee received a report prepared by the Administrative Office of Pennsylvania Courts and the Pennsylvania Conference of State Trial Judges concerning the “continued use” of ACT. Given that the use of ACT in juvenile court proceedings has been governed by procedural rule, the report made the following recommendations:

In the Delinquency Rules, it is recommended both the guardian, Pa.R.J.C.P. 131, and the victim, Pa.R.J.C.P. 132, be authorized to participate in proceedings via ACT, at the discretion of the presiding judge. In bench warrant[] proceedings for failure to appear, Pa.R.J.C.P. 140 (C)(1)(a) and 140 (D)(1)(a), it is recommended the juvenile and witnesses be permitted to participate via ACT. It is also recommended

the rules authorize the use of ACT to conduct the hearing required under Pa.R.J.C.P. 140(C)(2) and 140 (D)(2).

There is already liberal authority in the Dependency Rules to utilize ACT to conduct proceedings. See, e.g., Pa.R.J.C.P. 1128 (C) and 1129. As with the Delinquency Rules above, in bench warrant proceedings for failure to appear, it is recommended that both parties, Pa.R.J.C.P. 1140 (B)(1), and witnesses, Pa.R.J.C.P. 1140 (C)(1), be authorized to appear via ACT, and that the hearings pursuant to Pa.R.J.C.P. 1140 (B)(2) and 1140 (C)(2) be conducted using ACT, at the discretion of the presiding judge. It is also recommended ACT be authorized to conduct hearings when a witness is out-of-county, Pa.R.J.C.P. 1140(C)(4). It is recommended ACT be authorized to conduct permanency hearings under Pa.R.J.C.P. 1609.

It is further recommended that Juvenile Court Procedural Rules, Pa. R.J.C.P. 120 and 1120, contain a definition of “good cause”.

Remote Proceedings Task Force: Continued Use of Advanced Communication Technology (ACT) Following the Termination of Judicial Emergencies, at p. 14 (June 2021). The report also recommended a uniform definition of ACT and the use of ACT for the service of orders and filings.

The presence of a guardian or victim at a delinquency proceeding via ACT is not precluded by Pa.R.J.C.P. 131 or 132. Therefore, the Committee does not believe amendments are necessary. However, when a guardian or victim is appearing as a witness in certain proceedings, the requirements for consent to use ACT have been retained. See, e.g., Pa.R.J.C.P. 406(C); Pa.R.J.C.P. 512(A)(3). Although these requirements do not prohibit the use of ACT, *per se*, the requirement of consent operates to restrict the unilateral judicial application of ACT to all proceedings.

The report also recommended amendments to rules governing bench warrant proceedings to clarify the permitted use of ACT. See Pa.R.J.C.P. 140 & 1140. The Committee proposes for comment responsive amendments to that recommendation. The report also recommends that ACT be authorized to conduct permanency hearings. The Committee believes such authority presently exists in Pa.R.J.C.P. 1608(E) for good cause.

Concerning the requested definition of “good cause,” as it relates to the use of ACT, the Committee is not inclined to recommend a definition because any definition may be unintentionally too broad or too narrow given that the phrase exists in 23 rules, some of which are not related to the use of ACT. See, e.g., Pa.R.J.C.P. 150(C)(1)(a) (“good cause” to withdraw as counsel). Notwithstanding, “good cause” has been defined generally as:

[A] substantial reason, one that affords a legal excuse. Legally sufficient ground or reason. Phrase “good cause” depends upon circumstances of [an] individual case, and finding of its existence lies largely in [the] discretion of [an] officer or court to which [the] decision is committed.... “Good cause” is a relative and highly abstract term, and its meaning must be determined not only by verbal context of statute in which term is employed but also by context of action and procedures involved in type of case presented.

*Anderson v. Centennial Homes, Inc.*, 594 A.2d 737, 739 (Pa. Super. 1991) (quoting Black's Law Dictionary 623 (5th ed. 1979)). Kindly note that the Comments accompanying Pa.R.J.C.P. 129 and 1129 contain examples of "good cause," i.e., "Advanced communication technology may be utilized for the convenience of witnesses; efficient use of resources; or when a party or witness has an illness, is incarcerated, or is otherwise in a remote location." In sum, the Committee believes that what constitutes "good cause" is best relegated to judicial discretion based upon immediate facts.

The report also recommended study of the use of ACT for the service of orders and filings, other than original process. The Committee wishes to note that the rules currently provide clerks of court several options to serve court orders and notices on counsel or unrepresented parties including the use of facsimile or email, upon request. See Pa.R.J.C.P. 167(B); 1167(B). Moreover, PACFile, an electronic filing system developed and maintained by the Administrative Office of Pennsylvania Courts, is available for use in the juvenile courts. That system contains a functionality whereby users are notified of orders and filings in lieu of traditional service methodologies. See Pa.R.J.C.P. 205(H); 1205(H). Of course, nothing in the rules precludes the use of ACT to send parties and witnesses "reminders" of court proceedings provided that notice has also been served in accordance with the rules.

The Committee will consider alternative service methodologies at a later date and specifically welcome readers' input on whether the existing service methodologies are ineffective and whether sufficiently reliable alternative methods exist.

The Committee invites all comments, concerns, and suggestions.

[Pa.B. Doc. No. 21-1987. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [ 246 PA. CODE CH. 200 ]

#### Proposed Amendment of Pa.R.Civ.P.M.D.J. 202 and 215

The Minor Court Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P.M.D.J. 202 and 215 governing advanced communication technology for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be 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:

Pamela S. Walker, Counsel  
Minor Court Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9546  
minorrules@pacourts.us

All communications in reference to the proposal should be received by January 4, 2022. 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 Minor Court Rules Committee

HONORABLE MARGARET A. HUNSICKER,  
Chair

### Annex A

#### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

#### Rule 202. Definitions.

As used in these rules, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

"adult" means an individual eighteen years of age or older;

**["advanced communication technology" is any communication equipment that is used as a link between parties in physically separate locations.]**

"attorney at law" means an individual admitted to practice law by the Supreme Court of Pennsylvania;

\* \* \* \* \*

"verified," when used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

**[ Official Note: Justices of the peace are now statutorily known as "magisterial district judges." ]**

#### Comment:

**Previously, magisterial district judges were statutorily known as "justices of the peace" and "district justices."** See 42 Pa.C.S. § 102 and 42 P.S. § 20003(d). As to magisterial district judges' civil jurisdiction, see 42 Pa.C.S. § 1515(a). The definitions of "sheriff" and "constable" include their deputies. As to deputy sheriffs, see 16 P.S. §§ [ 1202 ] **1202-A** and 4202. As to deputy constables, see [ 13 P.S. §§ 21—23 ] **44 Pa.C.S. § 7122**. As to certification of constables and deputy constables, see [ 42 Pa.C.S. § 2942 ] **44 Pa.C.S. § 7142**.

#### Rule 215. Advanced Communication Technology.

**[ Magisterial district judges may authorize the use of advanced communication technology during**

any civil proceeding or action governed by the Rules of Civil Procedure for Magisterial District Judges.]

(a) **Definition.** “Advanced Communication Technology” shall mean any communication technology providing for two-way simultaneous communication of image and sound.

(b) **General Rule.** Proceedings may be conducted using advanced communication technology in accordance with local rule.

[ *Official Note:* This rule was adopted in 2008 to specify that ]

**Comment:**

A magisterial district [judges] judge may use advanced communication technology in [their courtrooms] the courtroom during an adversarial [proceedings. In] proceeding or an *ex parte* proceeding, such as an action pursuant to the Protection From Abuse Act, 23 Pa.C.S. §§ 6101—6122, or 42 Pa.C.S. §§ 62A01—62A20 (providing for protection of victims of sexual violence or intimidation), [magisterial district judges also may permit the use of advanced communication technology. Limited technology available in some magisterial district courts may preclude the use of certain advanced communication technology options] in accordance with local rule. Compare Pa.R.Crim.P. 119. For local rulemaking, see Pa.R.J.A. 103(d).

**PUBLICATION REPORT**

**Proposed Amendment of  
Pa.R.Civ.P.M.D.J. 202 and 215**

The Minor Court Rules Committee (“Committee”) is considering proposing to the Supreme Court of Pennsylvania the amendment of Rules 202 and 215 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges (“Rules”) in response to a rulemaking request. This proposal would update the definition of “advanced communication technology” (“ACT”) and delegate rule-making authority relative to the use of ACT to the judicial districts in the form of local rules.

*Background*

The current definition of ACT applicable to civil matters in magisterial district courts is “any communication equipment that is used as a link between parties in physically separate locations.” See Pa.R.Civ.P.M.D.J. 202. Wide discretion is given to the magisterial district judges in the use of ACT in the magisterial district courts—“Magisterial district judges may authorize the use of [ACT] during any civil proceeding or action governed by the Rules of Civil Procedure for Magisterial District Judges.” See Pa.R.Civ.P.M.D.J. 215. These Rules have been in effect since 2008.

In July of 2021, the Committee received a report prepared by the Administrative Office of Pennsylvania Courts and the Pennsylvania Conference of State Trial Judges concerning the “continued use” of ACT. Given that the use of ACT in magisterial district court proceedings has been governed by procedural rule, the report recommended a number of rule amendments generally enabling or expanding the use of ACT:

The Task Force reviewed the civil and criminal procedural rules implicated in matters before the

minor judiciary to determine where it may be appropriate to recommend expanded authorization to use ACT in conducting court proceedings. As with other procedural rules, continued and expanded use of ACT is recommended in virtually all proceedings.

\* \* \* \* \*

The Rules governing civil proceedings in the minor judiciary already permit the use of ACT. Pa.R.C.P.M.D.J. 215. For proceedings conducted in whole or in part using ACT, it may be necessary to compel witnesses to attend and testify or to produce documents virtually. For this reason, it is recommended that Pa.R.C.P.M.D.J. 213-214 be amended to authorize service of subpoenas, and to compel testimony or the production of documents, via ACT or electronic communications in minor court civil proceedings. It is similarly recommended that authorization be given to file and serve original civil process and to conduct actions for the recovery of possession of real property using ACT or electronic communications in minor court proceedings. To facilitate this authorization, amendments would be needed to Pa.R.C.P.M.D.J. 303—305, 307—314, 502(B), 506, 508, and 515—517. Electronic service should also be authorized in appeals. Pa.R.C.P.M.D.J. 1005(E).

Remote Proceedings Task Force: Continued Use of Advanced Communication Technology (ACT) Following the Termination of Judicial Emergencies, at pp. 16-17 (June 2021).<sup>1</sup> The report also referenced the use of ACT in emergency protection from abuse matters.

*Discussion*

Insofar as a significant aspect of applicability and procedures would be delegated to local rule, several observations can be made. First, the judicial districts have acquired significant experience with the use of ACT during the pandemic and, consequently, have existing local procedures and practices that work. At this juncture, there does not appear to be a need for further statewide procedures nor were further statewide procedures necessary for the use of ACT, prior to pandemic. Thus, absent a demonstrated need, procedures would be left to local rule. Note, however, those practices governing the use of ACT would need to be codified into a local rule. See Pa.R.J.A. 103(d).

Second, it should be acknowledged that delegating applicability and procedures to local rule creates the opportunity for significant variation among judicial districts. This may be challenging to multi-district practitioners who must navigate not only among the various local procedures and types of proceedings that use ACT, but also the different technologies employed. If the extent of any variation imposes undue burdens on practice of law or becomes “unacceptable” to the concept of a unified judicial system, the necessity of uniform statewide applicability and procedures may be revisited. Over time, a consensus may be reached on the best practice as it relates to applicability and procedures.

Regarding a uniform definition of ACT, discussion arose whether the definition should include both an audio and video component, *i.e.*, “sound and sight.” The current ACT definition set forth at Pa.R.Civ.P.M.D.J. 202 is broad and permits communication by audio only. Reasons in favor of a video component include:

<sup>1</sup> While the Task Force’s report discusses the use of ACT in criminal matters before the minor judiciary, this proposal is limited in scope to civil proceedings. The report also recommended the use of ACT for the service of orders and filings. Presumably, the form of ACT for service would rely upon the report’s proffered definition of “electronic communication.” The Committee is not addressing the electronic service of orders and filings at this time.

- It provides a more comprehensive form of witness identification.
- It reduces the opportunity for contemporaneous witness coaching.
- It reinforces witness sequestration.
- It assures a modicum of decorum.
- It provides a means to evaluate credibility and demeanor.
- It ensures that non-verbal communication is observable.
- It detects whether a witness's responses are based upon contemporaneous, independent recollection or whether the witness is relying upon a writing to refresh recollection. *See* Pa.R.E. 612.

Moreover, the technology for contemporaneous audiovisual communication has greatly improved, become more accessible, and confidence in its use has increased.

An argument against requiring a visual component within the definition of ACT is that it may limit the use of ACT. For example, there may be geographical locations where necessary bandwidth does not exist or a participant does not have the technology for audio and visual communications. The merit of these arguments is acknowledged, but the preferred alternative would be for the participant to either appear in court or appear from a location where the proponent of the testimony can provide audio and visual communications, *e.g.*, the attorney's office.

Moreover, retaining a form of communication that only has an audio component could be seen as a step back from the successful use of technology during the pandemic. Nonetheless, the use of audio-only communication technology has been permitted in the magisterial district courts since 2008.

#### *Proposed Rule Amendments*

The proposed amendments delete the definition of ACT from Pa.R.Civ.P.M.D.J. 202 and add a revised definition of ACT to Pa.R.Civ.P.M.D.J. 215. The revised definition of ACT requires "two-way simultaneous communication of image and sound" for the reasons discussed *supra*. Moreover, the proposed rule shifts discretion for the use of ACT from individual magisterial district judges to local rules promulgated by the judicial district. The proposed amendments also include stylistic changes and updates to

statutory references. The Committee invites all comments, concerns, and suggestions.

[Pa.B. Doc. No. 21-1988. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BEAVER COUNTY

#### Local Rule of Judicial Administration LJA100; Administrative Doc. No. 10224-2021

#### Administrative Order

October 22, 2021

It is hereby *Ordered* that the following Beaver County Local Rule of Judicial Administration LJA100 is *Rescinded*, effective January 1, 2022.

Pursuant to Pa.R.J.A. 103(c), the District Court Administrator is directed to:

1. file one (1) copy of this Administrative Order with the Administrative Office of Pennsylvania Courts.
- 2) submit two (2) paper copies of this Administrative Order and a copy on a computer diskette, CD-ROM, or other approved format containing the text of the Administrative Order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- 3) compile the local rule within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.
- 4) publish a copy of this Administrative Order on the Beaver County Court of Common Pleas website, <http://www.beavercountypa.gov/Depts/Courts>, after publication in the *Pennsylvania Bulletin*.
- 5) keep a copy of this Administrative Order continuously available for public inspection and copying in the Clerk of Courts Office; and the Beaver County Law Library.

*By the Court*

RICHARD MANCINI,  
*President Judge*

[Pa.B. Doc. No. 21-1989. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### DAUPHIN COUNTY

#### Promulgation of Local Rules; No. 1793 S 1989

#### Order

*And Now*, this 16th day of November, 2021, Dauphin County Local Rules of Civil Procedure 1920.43, 1920.51, 1920.51A, 1920.74(a), 1920.74(b), and 1920.77 are amended as follows:

Rule 1920.43. Pre-Hearing Divorce Matters, Special Relief, Advance Distribution, Discovery, Post-Divorce Issues (Other Than Exceptions to [ **Master's** ] **Hearing Officer's** Report).

(a) The Court may assign Petitions for Special Relief and Motions raising pre-trial and post-divorce issues to the Divorce [ **Master** ] **Hearing Officer**.

(b) Any Pre-Hearing or Post-Divorce Petition or Motion in a divorce matter shall comply with Dauphin County Local Rule 205.2(a)(3)(b).

(1) The filing party shall certify that (s)he disclosed the full text of the Petition or Motion and Proposed Order to all parties by facsimile or electronic communication and whether each party concurs or opposes the Petition or Motion and Proposed Order in accordance with Dauphin County Local Rule 208.2(d).

(2) If any party opposes the Petition or Motion and Proposed Order, or any party fails to respond in a timely manner, the Petition or Motion is contested and the moving party shall attach:

- (a) A Rule to Show Cause in accordance with Pa.R.C.P. 206.5;
- (b) A Proposed Order;
- (c) A Certificate of Service;
- (d) A Self-Represented Party Entry of Appearance if unrepresented by legal counsel.

(3) If all parties concur, the Petition or Motion is uncontested and the filing party shall attach the proposed agreed Order.

(c) If the Petition or Motion is contested, a Family Court Judge shall issue a Rule to Show Cause.

(d)(1) Either party shall file an original and one copy of the Request for Assignment form with the Prothonotary when a response to the Rule to Show Cause is filed or the time for a response has expired. The Request for Assignment form shall be in the following form. This form is available [ at [www.dauphincounty.org/government/Court-Departments/Self-Help Center/default.aspx](http://www.dauphincounty.org/government/Court-Departments/Self-Help-Center/default.aspx) ] in the Dauphin County Self-Help Center.

\_\_\_\_\_  
 Plaintiff : IN THE COURT OF COMMON PLEAS  
 : DAUPHIN COUNTY, PENNSYLVANIA  
 :  
 v. : NO. \_\_\_\_\_ CV \_\_\_\_\_  
 :  
 \_\_\_\_\_ : CIVIL ACTION  
 Defendant : IN DIVORCE

(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

REQUEST FOR ASSIGNMENT TO DIVORCE [ **Master** ] Hearing Officer OR JUDGE

Date Petition for Special Relief/Advance Distribution/Post-Divorce Relief was filed: \_\_\_\_\_

Date Rule to Show Cause was issued: \_\_\_\_\_

Date Response was filed: \_\_\_\_\_

The matter is ready for assignment to a Judge or Divorce [ **Master** ] Hearing Officer.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

(2) The Court Administrator’s Office shall assign the Petition and Response to a Family Law Judge for review. The Family Law Judge shall either schedule a hearing, enter an Interim Order and refer the matter to the Divorce [ **Master** ] Hearing Officer, or refer the matter to the Divorce [ **Master** ] Hearing Officer to address the issues in dispute.

(3) If the Family Law Judge refers the matter to the Divorce [ **Master** ] Hearing Officer, the moving party shall file an original and one copy of a Motion for Appointment of [ **Master** ] Hearing Officer with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Local Rule 1920.51 plus any other filing fee required by the Prothonotary.

(4) The Prothonotary shall promptly forward the Motion for Appointment of [ **Master** ] Hearing Officer to the Court Administrator’s Office. A Family Court Judge will appoint the Divorce [ **Master** ] Hearing Officer to hear the pending matter.

(5) The Divorce [ **Master** ] Hearing Officer will schedule a Conference.

(6) The Divorce [ **Master** ] Hearing Officer shall file a Memorandum memorializing the agreement reached at any Pre-Hearing Conference with the Prothonotary and shall forward the agreed Order to a Family Court Judge for review.

(7) The Divorce [ **Master** ] **Hearing Officer** shall schedule a hearing if an agreement is not reached at any Conference.

(8) The Divorce [ **Master** ] **Hearing Officer** shall file a Report and Recommendation and Proposed Order with the Prothonotary within twenty (20) days in uncontested actions or thirty (30) days in contested actions from the date of the hearing and mail a copy of the Report and Recommendation and Proposed Order to all counsel and/or self-represented parties.

(9) A party may file exceptions to the Report and Recommendation and Proposed Order in accordance with Pa.R.C.P. 1920.55-2(b).

(10) If no exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge to issue an Order.

(11) If exceptions are filed, the Prothonotary shall promptly forward the Exceptions to the Court Administrator's Office for assignment to a Family Court Judge for disposition.

(e) A party may file an original and one copy of a Motion For Appointment of [ **Master** ] **Hearing Officer** with the Prothonotary together with the administrative fee of \$75.00 plus any other filing fee required by the Prothonotary to address discovery at any point after the filing of the Divorce Complaint.

**Rule 1920.51. Equitable Distribution, Divorce, Annulment, Alimony, Counsel Fees, Costs and Expenses.**

(1) The Divorce [ **Master** ] **Hearing Officer** shall hear annulment, divorce, economic claims in divorce including alimony, equitable distribution, counsel fees, costs and expenses or any aspect thereof.

(2) Any party shall file an original and a copy of the Motion for Appointment of [ **Master** ] **Hearing Officer** with the Prothonotary if proceeding under Dauphin County Local Rule 1920.51. If a [ **Master** ] **Hearing Officer** was previously appointed because of pretrial or discovery matters, the administrative fee of \$75.00 plus any filing fee required by the Prothonotary shall be paid to the Prothonotary. If a [ **Master** ] **Hearing Officer** has not been previously appointed, an administrative fee of \$150.00 plus any filing fee required by the Prothonotary shall be paid to the Prothonotary. The Motion for Appointment of [ **Master** ] **Hearing Officer** shall be in form prescribed by Dauphin County Local Rule 1920.74(a).

(3) The Motion shall include the following attachments:

(a) An updated Income and Expense Statement in the form required by Pa.R.C.P. 1910.27(c)(1).

(b) An updated Inventory and Appraisal in the form required by Pa.R.C.P. 1920.75.

(c) A proposed Order appointing the [ **Master** ] **Hearing Officer** and scheduling a Preliminary Conference in the form prescribed by Dauphin County Local Rule 1920.74(b).

(d) A Certificate of Service.

(e) A Self-Represented Entry of Appearance if the filing party is unrepresented by legal counsel.

(4) The Prothonotary shall forward the Motion for Appointment of [ **Master** ] **Hearing Officer** to the Court Administrator's Office. A Family Court Judge shall ap-

point the Divorce [ **Master** ] **Hearing Officer** and the Divorce [ **Master** ] **Hearing Officer** shall schedule a Preliminary Conference with the parties and their legal counsel.

(5) At the Preliminary Conference, the Divorce [ **Master** ] **Hearing Officer** shall address all outstanding pre-trial matters with counsel and the parties.

(6) Following the Preliminary Conference, the Divorce [ **Master** ] **Hearing Officer** shall schedule a Settlement Conference with the parties and their legal counsel.

(7) Following both the Preliminary Conference and the Settlement Conference, the Divorce [ **Master** ] **Hearing Officer** shall prepare a Memorandum memorializing any agreements and schedule the matter for a hearing on all remaining contested issues.

(8) The Divorce [ **Master** ] **Hearing Officer** shall file the Memorandum with the Prothonotary and mail a copy of the Memorandum to all legal counsel and self-represented parties in accordance with Pa.R.C.P. 1920.51.

(9) The Court shall pay a stenographer's appearance fee if a court reporter not employed by Dauphin County transcribes the hearing testimony; however the cost of any transcripts requested by the parties shall be borne by the parties.

(10) The Divorce [ **Master** ] **Hearing Officer** shall file a Report and Recommendation and Proposed Order with the Prothonotary in accordance with the Pennsylvania Rules of Civil Procedure.

(11) A copy of the Report and Recommendation and Proposed Order shall be mailed to counsel and self-represented parties with written notice of the right to file Exceptions.

(12) If the parties request a transcript, the Divorce [ **Master** ] **Hearing Officer** may delay the filing of the Report and Recommendation and Proposed Order or file a Supplemental Report and Recommendation and Proposed Order in accordance with the Pennsylvania Rules of Civil Procedure.

(13) If no timely Exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that Judge.

(14) An original and a copy of Exceptions to the Divorce [ **Master's** ] **Hearing Officer's** Report and Recommendation shall be filed with the Prothonotary's Office along with a Prior Court Involvement Statement in accordance with Dauphin County Local Rule 1931. This form is available [ [at www.dauphincounty.org/government/Court/Self-HelpCenter/Pages/default.aspx](http://www.dauphincounty.org/government/Court/Self-HelpCenter/Pages/default.aspx) ] in the Dauphin County Self-Help Center.

(15) The Prothonotary shall forward the Exceptions to the Report and Recommendation to the Court Administrator's Office for assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that Judge.

(16) The Court shall promptly issue an Order scheduling a conference, the filing of briefs and/or oral argument.



**Rule 1920.51A. Administrative Fees for Divorce Matters.**

(1) *DIVORCE COMPLAINT*: The plaintiff shall pay a \$125.00 administrative fee plus any filing fees required by the Prothonotary at the time the divorce complaint is filed.

**(2) MOTION FOR APPOINTMENT OF [ MASTER ] HEARING OFFICER:**

(a) The party filing the Motion for Appointment of [ **Master** ] **Hearing Officer** shall pay a \$75.00 administrative fee plus any filing fees required by the Protho-

tary if proceeding under Dauphin County Local Rule 1920.43.

(b) The filing party shall pay a \$150.00 administrative fee plus any filing fees required by the Prothonotary if proceeding under Dauphin County Local Rule 1920.51 and a [ **Master** ] **Hearing Officer** has not been previously appointed.

(c) The filing party shall pay a \$75.00 administrative fee plus any filing fees required by the Prothonotary if proceeding under Dauphin County Local Rule 1920.51 and a [ **Master** ] **Hearing Officer** was previously appointed under Dauphin County Local Rule 1920.43.

Rule 1920.74(a). FORM-Motion for Appointment of [ **Master** ] **Hearing Officer**.

_____	:	IN THE COURT OF COMMON PLEAS
Plaintiff	:	DAUPHIN COUNTY, PENNSYLVANIA
	:	
v.	:	NO. _____ CV _____
	:	
_____	:	CIVIL ACTION
Defendant	:	IN DIVORCE

(ATTORNEY FOR MOVING PARTY)(SELF-REPRESENTED MOVING PARTY):

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**MOTION FOR APPOINTMENT OF [ MASTER ] HEARING OFFICER**

1. Check one of the following boxes:

- I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all issues raised be decided by the Divorce [ **Master** ] **Hearing Officer**. I paid the \$150.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce [ **Master** ] **Hearing Officer** was not previously appointed for pre-trial or discovery matters.
- I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all remaining issues raised be decided by the Divorce [ **Master** ] **Hearing Officer**. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce [ **Master** ] **Hearing Officer** was previously appointed for pre-trial or discovery matters.
- I file this motion in accordance with Dauphin County Local Rule 1920.43 and request that discovery, special relief matters, or other pre-trial or post-divorce issues excluding Exceptions to [ **Master's** ] **Hearing Officer's** Report be decided by the Divorce [ **Master** ] **Hearing Officer**. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary.

2. \_\_\_\_\_, (circle one) PLAINTIFF/DEFENDANT, moves the Court to appoint a Divorce [ **Master** ] **Hearing Officer** with respect to the following claims:

- Divorce       Annulment    Alimony
- Equitable Division of Marital Property    Counsel Fees
- Costs and Expenses       Other: \_\_\_\_\_

3. The plaintiff's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. The defendant's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. The non-moving party (circle one) (has)(has not) appeared in the action (circle one) (personally) (by his/her attorney) \_\_\_\_\_, Esquire

6. The statutory ground(s) for divorce (is)(are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. Discovery (circle one) (is)(is not) complete.

8. If the [ **Master's** ] **Hearing Officer's** appointment is for resolution of a divorce, an annulment, or ancillary claims, the parties have complied with Pa.R.C.P. Nos. 1920.31, 1920.33, and 1920.46, as applicable.

9. Check and compete the applicable paragraph(s):

- (a) The action is not contested.
- (b) An agreement has been reached with respect to the following claims: \_\_\_\_\_.
- (c) The action is contested with respect to the following claims: \_\_\_\_\_.

10. The action (involves) (does not involve) complex issues of law or fact.

11. The hearing is expected to take \_\_\_\_\_ (hours) (days).

12. Additional information, if any, relevant to the motion:

\_\_\_\_\_  
13. I mailed a copy of this motion to all parties and/or their legal counsel at the addresses listed above on \_\_\_\_\_, 20\_\_\_\_\_.

Respectfully submitted:

\_\_\_\_\_  
Date Signature

Rule 1920.74(b). FORM-Order Appointing [ **Master** ] **Hearing Officer** and Scheduling Preliminary Conference.  
[CAPTION]

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ the Motion of Appointment of [ **Master** ] **Hearing Officer** is GRANTED and \_\_\_\_\_ is appointed as [ **Master** ] **Hearing Officer** with respect to the following claims:

- Divorce     Annulment     Alimony
- Equitable Division of Marital Property     Counsel Fees
- Costs and Expenses     Other: \_\_\_\_\_

A Preliminary Conference is scheduled for both parties and their attorneys on \_\_\_\_\_, \_\_\_\_\_, 20\_\_\_\_\_ at \_\_\_\_\_: \_\_\_\_\_M. in Conference Room 2 on the 7th Floor of the Juvenile Justice Center, 25 S. Front Street, Harrisburg, Pennsylvania 17101.

If economic claims have been raised of record in this case, to the extent not already filed, the non-moving party shall have ten (10) days from the date of this Order to file the documents required by Pa.R.C.P. 1920.31(a) and Pa.R.C.P. 1920.33(a). Failure to file the required documents may subject the offending party to sanctions as provided in those rules.

BY THE COURT:

\_\_\_\_\_  
Judge

DISTRIBUTION:

**Rule 1920.77. Divorce Information Sheet.**

(a) The Divorce Information Sheet shall be filed with the Prothonotary simultaneously with the filing of the Praeceptum to Transmit Record pursuant to Pa.R.C.P. 1920.42 or the filing of the Motion for Appointment of [ **Master** ] **Hearing Officer** pursuant to Pa.R.C.P. 1920.51. The Divorce Information Sheet shall be obtained from the Prothonotary's Office. The Divorce Information Sheet shall contain the Social Security Numbers of the parties to the divorce in accordance with 23 Pa.C.S. Section 4304.1(a)(3). The Divorce Information Sheet shall also contain information to enable the Prothonotary to submit required statistical information to the Commonwealth of Pennsylvania, Department of Health, Vital Statistics Division.

(b) After the Divorce Decree is signed by a judge, the Divorce Information Sheet shall be removed from the public file by the Prothonotary and shall be kept confidential in accordance with 23 Pa.C.S. Section 4304.1(a)(3).

The previously listed amendments shall be published in the *Pennsylvania Bulletin* and will become effective January 1, 2022.

*By the Court*

JOHN F. CHERRY,  
*President Judge*

[Pa.B. Doc. No. 21-1990. Filed for public inspection December 3, 2021, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### NORTHAMPTON COUNTY

#### Administrative Order 2021-19; Establishment of a Central Court; No. C-48-AD-211-2021

##### Amended Administrative Order

*And Now*, this 15th day of November, 2021, pursuant to Pennsylvania Rule of Judicial Administration 605(A)(5) and Pennsylvania Rule of Criminal Procedure 131(B), in order to serve the public's compelling interest in conducting judicial proceedings in the most efficient, secure, and cost-effective manner, the President Judge of the Third Judicial District has determined that local conditions require establishment of a central location for conducting preliminary hearings in criminal cases. Accordingly, it is hereby *Ordered* as follows:

1. In criminal cases originating in Magisterial District Courts of the Third Judicial District, preliminary hearings for incarcerated defendants shall be held in the Northampton County Courthouse, Courtroom 4, 669 Washington Street, Easton, Pennsylvania 18042. The courtroom where such preliminary hearings are conducted shall be known as "Central Court."

2. The operations of Central Court shall be administered by the Court Administrator of the Northampton County Court of Common Pleas and employees in the Office of Court Administration ("Central Court Staff"). The Court Administrator and Central Court Staff shall be responsible for all administrative functions of Central Court, including, but not limited to, creating the rotation schedule for Magisterial District Judges, assigning and supervising courtroom personnel and support staff, creating the calendar for scheduling of preliminary hearings, processing requests for continuances, providing court files to the designated Magisterial District Judge sitting in Central Court, setting protocols governing security and public health issues, and coordinating with Magisterial District Courts, the Northampton County Sheriff's Department, the Criminal Division of the Northampton County Court of Common Pleas, the District Attorney's Office, the Public Defender's office, police departments, private counsel, litigants, and witnesses. Central Court

may be contacted by calling 610-829-6919 or by sending an email to [centralcourt@northamptoncounty.org](mailto:centralcourt@northamptoncounty.org).

3. On each day that Central Court is in session, one Magisterial District Judge shall be temporarily reassigned from his or her own Magisterial District Court to Central Court and shall preside over all proceedings conducted in Central Court that day. Magisterial District Judges shall be assigned to Central Court on a rotating basis, with the duty of serving in Central Court apportioned equally among all Magisterial District Judges. The rotation schedule shall be created by the Court Administrator. If a Magisterial District Judge will be unable to assume his or her Central Court assignment for a particular date, the assigned Magisterial District Judge shall be responsible for securing another Magisterial District Judge to assume the assignment for that date and shall notify Central Court of the change as soon as is reasonably practicable.

4. Central Court shall be in session every week from Monday through Friday between 9:00 a.m. and 12:00 p.m. and between 1:00 p.m. and 4:30 p.m. Preliminary hearings shall be scheduled at one hour intervals throughout the day, or at longer intervals as circumstances may require.

5. Preliminary hearings shall be scheduled in the first instance during the preliminary arraignment process upon issuance of a summons by the originating Magisterial District Court through the Magisterial District Judge System ("MDJS"). At the conclusion of the preliminary arraignment, the Magisterial District Judge shall issue a written notice (1) identifying the date, time, and place of the preliminary hearing in accordance with the requirements of this order and Pennsylvania Rule of Criminal Procedure 540; (2) indicating whether the defendant will require a foreign-language interpreter for the preliminary hearing, and, if so, the language for which the interpreter will be needed; (3) stating that, if the preliminary hearing is scheduled to take place at Central Court, the location of the hearing will not change regardless of whether the defendant remains incarcerated at the time of the preliminary hearing or is released from incarceration prior to the date of the preliminary hearing; and (4) providing that if an incarcerated defendant is released from incarceration prior to the date of the preliminary hearing, the

defendant shall notify Central Court within twenty-four hours of his or her release by calling 610-829-6919 or by sending an email to centralcourt@northamptoncounty.org.

6. The staff of the originating Magisterial District Court shall require that the written notice referenced in paragraph 5 above and the following documents (as and where applicable) be entered into the MDJS and scanned into the Electronic Records Management System ("ERMS"): criminal complaint, affidavit of probable cause, confidential information form, bail bond, executed and returned arrest warrant, executed and returned search warrants, and any and all other documents created or referenced at the preliminary arraignment. The ERMS shall be accessible to the originating Magisterial District Court and Central Court Staff.

7. As soon as is reasonably practicable, Central Court Staff shall provide copies of the documents scanned into the ERMS and the schedule of upcoming preliminary hearings to (1) the Criminal Division of the Northampton County Court of Common Pleas; (2) the Northampton County District Attorney's Office; (3) the Northampton County Public Defender's Office; and (4) defense attorneys.

8. The schedule of each week's preliminary hearings to be held at Central Court shall be posted on the Northampton County Court of Common Pleas website at "www.nccpa.org" and in the hallway outside Central Court.

9. Following each proceeding in Central Court, Central Court staff shall scan any and all documents generated at the proceeding into the ERMS. When all Central Court proceedings in an individual case have been concluded, Central Court Staff shall deliver the original case documents to the Criminal Division of the Court of Common Pleas. Any documents required to be provided to the Office of the District Attorney or the Public Defender's Office shall be transmitted to those Offices by Central Court Staff.

10. The Court Administrator shall take all steps necessary to implement the provisions of this Order.

11. This Order shall become effective on January 3, 2022 and the first preliminary hearing of an incarcerated defendant shall take place on January 13, 2022, at the Northampton County Courthouse.

*By the Court*

MICHAEL J. KOURY, Jr.,  
*President Judge*

[Pa.B. Doc. No. 21-1991. Filed for public inspection December 3, 2021, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### List of Financial Institutions

Notice is hereby given that pursuant to Rule 221(b), Pa.R.D.E., the following List of Financial Institutions have been approved by the Supreme Court of Pennsylvania for the maintenance of fiduciary accounts of attorneys. Each financial institution has agreed to comply with the requirements of Rule 221, Pa.R.D.E., which provides for trust account overdraft notification.

SUZANNE E. PRICE,  
*Attorney Registrar*

## FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES OF TRUST ACCOUNTS OF ATTORNEYS

### Bank Code A.

595	Abacus Federal Savings Bank
2	ACNB Bank
613	Allegent Community Federal Credit Union
375	Altoona First Savings Bank
376	Ambler Savings Bank
<b>532</b>	<b>AMERICAN BANK (PA)</b>
615	Americhoice Federal Credit Union
<b>116</b>	<b>AMERISERV FINANCIAL</b>
648	Andover Bank (The)
377	Apollo Trust Company

### Bank Code B.

558	Bancorp Bank (The)
485	Bank of America, NA
662	Bank of Bird in Hand
415	Bank of Landisburg (The)
664	BankUnited, NA
501	BELCO Community Credit Union
652	Berkshire Bank
663	BHCU
5	BNY Mellon, NA
392	Brentwood Bank
495	Brown Brothers Harriman Trust Co., NA
161	Bryn Mawr Trust Company (The)

### Bank Code C.

654	CACL Federal Credit Union
618	Capital Bank, NA
16	CBT Bank, a division of Riverview Bank
136	Centric Bank
<b>394</b>	<b>CFS BANK</b>
623	Chemung Canal Trust Company
599	Citibank, NA
238	Citizens & Northern Bank
561	Citizens Bank, NA
206	Citizens Savings Bank
576	Clarion County Community Bank
660	Clarion FCU
591	Clearview Federal Credit Union
23	CNB Bank
223	Commercial Bank & Trust of PA
21	Community Bank (PA)
371	Community Bank, NA (NY)
132	Community State Bank of Orbisonia
<b>647</b>	<b>CONGRESSIONAL BANK</b>
380	County Savings Bank
536	Customers Bank

### Bank Code D.

339	Dime Bank (The)
27	Dollar Bank, FSB

### Bank Code E.

500	Elderton State Bank
567	Embassy Bank for the Lehigh Valley
541	Enterprise Bank
28	Ephrata National Bank
601	Esquire Bank, NA
340	ESSA Bank & Trust

### Bank Code F.

629	1st Colonial Community Bank
158	1st Summit Bank
31	F & M Trust Company—Chambersburg
658	Farmers National Bank of Canfield

205 Farmers National Bank of Emlenton (The)  
 34 Fidelity Deposit & Discount Bank (The)  
**343 FIDELITY SAVINGS & LOAN ASSOCIATION OF BUCKS COUNTY**  
 583 Fifth Third Bank  
 661 First American Trust, FSB  
 643 First Bank  
 174 First Citizens Community Bank  
 191 First Columbia Bank & Trust Company  
 539 First Commonwealth Bank  
 504 First Federal S & L Association of Greene County  
 525 First Heritage Federal Credit Union  
 42 First Keystone Community Bank  
 51 First National Bank & Trust Company of Newtown (The)  
 48 First National Bank of Pennsylvania  
 426 First Northern Bank & Trust Company  
 604 First Priority Bank, a division of Mid Penn Bank  
**592 FIRST RESOURCE BANK**  
 657 First United Bank & Trust  
 408 First United National Bank  
 151 Firsttrust Savings Bank  
 416 Fleetwood Bank  
 175 FNCB Bank  
 291 Fox Chase Bank  
 241 Franklin Mint Federal Credit Union  
 639 Freedom Credit Union  
 58 Fulton Bank, NA

**Bank Code G.**

499 Gratz Bank (The)  
 498 Greenville Savings Bank

**Bank Code H.**

402 Halifax Branch, of Riverview Bank  
 244 Hamlin Bank & Trust Company  
 362 Harleysville Savings Bank  
 363 Hatboro Federal Savings  
 463 Haverford Trust Company (The)  
 606 Hometown Bank of Pennsylvania  
 68 Honesdale National Bank (The)  
 350 HSBC Bank USA, NA  
**364 HUNTINGDON VALLEY BANK**  
 605 Huntington National Bank (The)  
 608 Hyperion Bank

**Bank Code I.**

669 Industrial Bank  
 365 InFirst Bank  
 557 Investment Savings Bank  
 526 Iron Workers Savings Bank  
 668 Inspire FCU  
 670 Investors Bank

**Bank Code J.**

70 Jersey Shore State Bank  
 127 Jim Thorpe Neighborhood Bank  
 488 Jonestown Bank & Trust Company  
 659 JPMorgan Chase Bank, NA  
**72 JUNIATA VALLEY BANK (THE)**

**Bank Code K.**

651 KeyBank NA  
 414 Kish Bank

**Bank Code L.**

78 Luzerne Bank

**Bank Code M.**

361 M & T Bank  
 386 Malvern Bank, NA  
 510 Marion Center Bank  
 387 Marquette Savings Bank  
 81 Mars Bank  
 43 Marysville Branch, of Riverview Bank  
 367 Mauch Chunk Trust Company  
 511 MCS (Mifflin County Savings) Bank  
 641 Members 1st Federal Credit Union  
 555 Mercer County State Bank  
 192 Merchants Bank of Bangor  
 671 Merchants Bank of Indiana  
 610 Meridian Bank  
 420 Meyersdale Branch, of Riverview Bank  
 294 Mid Penn Bank  
**276 MIFFLINBURG BANK & TRUST COMPANY**  
 457 Milton Savings Bank  
**596 MOREBANK, A DIVISION OF BANK OF PRINCETON (THE)**  
**484 MUNCY BANK & TRUST COMPANY (THE)**

**Bank Code N.**

433 National Bank of Malvern  
 168 NBT Bank, NA  
 347 Neffs National Bank (The)  
**434 NEW TRIPOLI BANK**  
 15 NexTier Bank, NA  
 636 Noah Bank  
 638 Norristown Bell Credit Union  
 666 Northern Trust Co.  
 439 Northumberland National Bank (The)  
 93 Northwest Bank

**Bank Code O.**

653 OceanFirst Bank  
 489 OMEGA Federal Credit Union  
 94 Orrstown Bank

**Bank Code P.**

**598 PARKE BANK**  
 584 Parkview Community Federal Credit Union  
 40 Penn Community Bank  
 540 PennCrest Bank  
 419 Pennian Bank  
 447 Peoples Security Bank & Trust Company  
 99 PeoplesBank, a Codorus Valley Company  
 556 Philadelphia Federal Credit Union  
 448 Phoenixville Federal Bank & Trust  
 665 Pinnacle Bank  
 79 PNC Bank, NA  
 449 Port Richmond Savings  
 667 Premier Bank  
 354 Presence Bank  
 451 Progressive-Home Federal Savings & Loan Association  
 637 Provident Bank  
 456 Prudential Savings Bank  
 491 PS Bank

**Bank Code Q.**

107 QNB Bank  
 560 Quaint Oak Bank

**Bank Code R.**

452 Reliance Savings Bank  
 220 Republic First Bank d/b/a Republic Bank  
 628 Riverview Bank

**Bank Code S.**

153	S & T Bank
316	Santander Bank, NA
460	Second Federal S & L Association of Philadelphia
646	Service 1st Federal Credit Union
458	Sharon Bank
462	Slovenian Savings & Loan Association of Franklin-Conemaugh
<b>486</b>	<b>SOMERSET TRUST COMPANY</b>
633	SSB Bank
<b>518</b>	<b>STANDARD BANK, PASB</b>
440	SunTrust Bank
122	Susquehanna Community Bank

**Bank Code T.**

143	TD Bank, NA
<b>656</b>	<b>TIOGA FRANKLIN SAVINGS BANK</b>
182	Tompkins Vist Bank
577	Traditions Bank
609	Tristate Capital Bank
672	Truist Bank
640	TruMark Financial Credit Union
467	Turbotville National Bank (The)

**Bank Code U.**

483	UNB Bank
481	Union Building and Loan Savings Bank
634	United Bank, Inc.
472	United Bank of Philadelphia
475	United Savings Bank
600	Unity Bank
232	Univest Bank & Trust Co.

**Bank Code V.**

611	Victory Bank (The)
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**Bank Code W.**

<b>119</b>	<b>WASHINGTON FINANCIAL BANK</b>
121	Wayne Bank
631	Wells Fargo Bank, NA
553	WesBanco Bank, Inc.
494	West View Savings Bank
473	Westmoreland Federal S & L Association
476	William Penn Bank
272	Woodlands Bank
<b>573</b>	<b>WOORI AMERICA BANK</b>
630	WSFS (Wilmington Savings Fund Society), FSB

**Bank Code X.****Bank Code Y.****Bank Code Z.****PLATINUM LEADER BANKS**

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

**IOLTA EXEMPTION**

Exemptions are not automatic. If you believe you qualify, you must apply by sending a written request to the IOLTA Board's executive director: 601 Commonwealth Avenue, Suite 2400, P.O. Box 62445, Harrisburg, PA 17106-2445. If you have questions concerning IOLTA or

exemptions from IOLTA, please visit their website at [www.paiolta.org](http://www.paiolta.org) or call the IOLTA Board at (717) 238-2001 or (888) PAIOLTA.

**FINANCIAL INSTITUTIONS WHO HAVE FILED AGREEMENTS TO BE APPROVED AS A DEPOSITORY OF TRUST ACCOUNTS AND TO PROVIDE DISHONORED CHECK REPORTS IN ACCORDANCE WITH RULE 221, Pa.R.D.E.**

*New*

672	Truist Bank
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*Name Change*

354	<i>Prosper Bank</i> —Change to 354 Presence Bank
542	LinkBank—Change to 499 Gratz Bank (The)
554	Landmark Community Bank—Change to 34 Fidelity Deposit & Discount Bank (The)

*Platinum Leader Change*

182	Tompkins VIST Bank—Remove
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*Correction**Removal*

642	BB & T Company
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[Pa.B. Doc. No. 21-1992. Filed for public inspection December 3, 2021, 9:00 a.m.]

**SUPREME COURT**

**Financial Institutions Approved as Depositories for Fiduciary Accounts; No. 216 Disciplinary Rules Doc.**

**Order***Per Curiam*

*And Now*, this 17th day of November, 2021, it is hereby Ordered that the financial institutions named on the following list are approved as depositories for fiduciary accounts in accordance with Pa.R.D.E. 221.

**FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES OF TRUST ACCOUNTS OF ATTORNEYS**

**Bank Code A.**

595	Abacus Federal Savings Bank
2	ACNB Bank
613	Allegent Community Federal Credit Union
375	Altoona First Savings Bank
376	Ambler Savings Bank
<b>532</b>	<b>AMERICAN BANK (PA)</b>
615	Americhoice Federal Credit Union
<b>116</b>	<b>AMERISERV FINANCIAL</b>
648	Andover Bank (The)
377	Apollo Trust Company

**Bank Code B.**

558	Bancorp Bank (The)
485	Bank of America, NA
662	Bank of Bird in Hand
415	Bank of Landisburg (The)
664	BankUnited, NA
501	BELCO Community Credit Union
652	Berkshire Bank
663	BHCU
5	BNY Mellon, NA

392 Brentwood Bank  
 495 Brown Brothers Harriman Trust Co., NA  
 161 Bryn Mawr Trust Company (The)

**Bank Code C.**

654 CACL Federal Credit Union  
 618 Capital Bank, NA  
 16 CBT Bank, a division of Riverview Bank  
 136 Centric Bank  
**394 CFS BANK**  
 623 Chemung Canal Trust Company  
 599 Citibank, NA  
 238 Citizens & Northern Bank  
 561 Citizens Bank, NA  
 206 Citizens Savings Bank  
 576 Clarion County Community Bank  
 660 Clarion FCU  
 591 Clearview Federal Credit Union  
 23 CNB Bank  
 223 Commercial Bank & Trust of PA  
 21 Community Bank (PA)  
 371 Community Bank, NA (NY)  
 132 Community State Bank of Orbisonia  
**647 CONGRESSIONAL BANK**  
 380 County Savings Bank  
 536 Customers Bank

**Bank Code D.**

339 Dime Bank (The)  
 27 Dollar Bank, FSB

**Bank Code E.**

500 Elderton State Bank  
 567 Embassy Bank for the Lehigh Valley  
 541 Enterprise Bank  
 28 Ephrata National Bank  
 601 Esquire Bank, NA  
 340 ESSA Bank & Trust

**Bank Code F.**

629 1st Colonial Community Bank  
 158 1st Summit Bank  
 31 F & M Trust Company—Chambersburg  
 658 Farmers National Bank of Canfield  
 205 Farmers National Bank of Emlenton (The)  
 34 Fidelity Deposit & Discount Bank (The)  
**343 FIDELITY SAVINGS & LOAN  
 ASSOCIATION OF BUCKS COUNTY**  
 583 Fifth Third Bank  
 661 First American Trust, FSB  
 643 First Bank  
 174 First Citizens Community Bank  
 191 First Columbia Bank & Trust Company  
 539 First Commonwealth Bank  
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 525 First Heritage Federal Credit Union  
 42 First Keystone Community Bank  
 51 First National Bank & Trust Company of  
 Newtown (The)  
 48 First National Bank of Pennsylvania  
 426 First Northern Bank & Trust Company  
 604 First Priority Bank, a division of Mid Penn  
 Bank  
**592 FIRST RESOURCE BANK**  
 657 First United Bank & Trust  
 408 First United National Bank  
 151 Firstrust Savings Bank  
 416 Fleetwood Bank  
 175 FNCB Bank

291 Fox Chase Bank  
 241 Franklin Mint Federal Credit Union  
 639 Freedom Credit Union  
 58 Fulton Bank, NA

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 362 Harleysville Savings Bank  
 363 Hatboro Federal Savings  
 463 Haverford Trust Company (The)  
 606 Hometown Bank of Pennsylvania  
 68 Honesdale National Bank (The)  
 350 HSBC Bank USA, NA  
**364 HUNTINGDON VALLEY BANK**  
 605 Huntington National Bank (The)  
 608 Hyperion Bank

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 365 InFirst Bank  
 557 Investment Savings Bank  
 526 Iron Workers Savings Bank  
 668 Inspire FCU  
 670 Investors Bank

**Bank Code J.**

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 127 Jim Thorpe Neighborhood Bank  
 488 Jonestown Bank & Trust Company  
 659 JPMorgan Chase Bank, NA  
**72 JUNIATA VALLEY BANK (THE)**

**Bank Code K.**

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 414 Kish Bank

**Bank Code L.**

78 Luzerne Bank

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 81 Mars Bank  
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 367 Mauch Chunk Trust Company  
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 40 Penn Community Bank  
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 556 Philadelphia Federal Credit Union  
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 665 Pinnacle Bank  
 79 PNC Bank, NA  
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 667 Premier Bank  
 354 Presence Bank  
 451 Progressive-Home Federal Savings & Loan  
 Association  
 637 Provident Bank  
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 491 PS Bank

**Bank Code Q.**

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 560 Quaint Oak Bank

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**Bank Code S.**

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 316 Santander Bank, NA  
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 646 Service 1st Federal Credit Union  
 458 Sharon Bank  
 462 Slovenian Savings & Loan Association of  
 Franklin-Conemaugh  
 486 **SOMERSET TRUST COMPANY**  
 633 SSB Bank  
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 440 SunTrust Bank  
 122 Susquehanna Community Bank

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143 TD Bank, NA  
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 672 Truist Bank  
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 467 Turbotville National Bank (The)

**Bank Code U.**

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481 Union Building and Loan Savings Bank  
 634 United Bank, Inc.  
 472 United Bank of Philadelphia  
 475 United Savings Bank  
 600 Unity Bank  
 232 Univest Bank & Trust Co.

**Bank Code V.**

611 Victory Bank (The)

**Bank Code W.**

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 121 Wayne Bank  
 631 Wells Fargo Bank, NA  
 553 WesBanco Bank, Inc.  
 494 West View Savings Bank  
 473 Westmoreland Federal S & L Association  
 476 William Penn Bank  
 272 Woodlands Bank  
 573 **WOORI AMERICA BANK**  
 630 WSFS (Wilmington Savings Fund Society), FSB

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 DEPOSITORY OF TRUST ACCOUNTS AND TO  
 PROVIDE DISHONORED CHECK REPORTS IN  
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672 Truist Bank

*Name Change*

354 Prosper Bank—Change to 354 Presence Bank  
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 554 Landmark Community Bank—Change to 34  
 Fidelity Deposit & Discount Bank (The)

*Platinum Leader Change*

182 Tompkins VIST Bank—Remove

*Correction**Removal*

642 BB & T Company

[Pa.B. Doc. No. 21-1993. Filed for public inspection December 3, 2021, 9:00 a.m.]