

THE COURTS

Title 207—JUDICIAL CONDUCT

PART V. JUDICIAL ETHICS ADVISORY BOARD

[207 PA. CODE CH. 1]

Order Amending Rules 104, 202 and 206 of the Pennsylvania Rules of the Judicial Ethics Advisory Board; No. 613 Judicial Administration Docket

Order

Per Curiam

And Now, this 28th day of February, 2024, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, *It Is Ordered* that:

Rules 104, 202 and 206 of the Pennsylvania Rules of the Judicial Ethics Advisory Board are amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and in brackets.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART V. JUDICIAL ETHICS ADVISORY BOARD

CHAPTER 1. RULES OF THE JUDICIAL ETHICS ADVISORY BOARD

Subchapter A. PRELIMINARY PROVISIONS

Rule 104. Pennsylvania Judicial Ethics Advisory Board.

(a) *General Rule.* The Supreme Court shall appoint a board to be known as the “Pennsylvania Judicial Ethics Advisory Board” (the Board), which shall consist of thirteen members: one judge of the Superior Court; one judge of the Commonwealth Court; four judges of the courts of common pleas; one judge of the Philadelphia Municipal Court; four magisterial district judges who must be members of the Pennsylvania bar; one member of the Pennsylvania bar who is not a judicial officer; and one retired judge from any level of the judiciary. A majority of the Board shall constitute a quorum; action of the Board shall be by majority vote of members attending. No member of the Board may be a member of the Judicial Conduct Board or the Court of Judicial Discipline. The Supreme Court shall designate one member to serve as Chair and another to serve as Vice-Chair. **Chair and Vice-Chair appointments shall be for two-year periods unless otherwise stated; eligible appointees for Chair and Vice-Chair positions shall have served as Board members for at least one year.**

(b) *Submissions from Representative Courts and Judicial Organizations.* The President Judges of the Superior and Commonwealth Courts shall submit to the Chief Justice the names of three candidates for each Board position to be filled by a judge of their respective courts. The PCSTJ shall submit to the Chief Justice the names of three candidates for each Board position to be filled by a judge of a common pleas court or a judge of the Philadel-

phia Municipal Court. The SCJAP shall submit to the Chief Justice the names of three candidates for each Board position to be filled by a magisterial district judge. The Supreme Court shall select appointees for those positions from the names submitted. In the absence of submissions, the Supreme Court shall proceed to fill the Board positions.

(c) *Terms and Vacancies.* The first nine appointments to the Board shall be for staggered terms as follows: three members appointed for six years, three members for four years, and three members for two years. The four members appointed to expand the Board to thirteen members will be appointed to staggered terms as follows: one member for six years, two members for four years, and one member for two years. Thereafter, a new appointment to the Board shall be for a single six-year term. A vacancy shall be filled from the same membership category using the same process from which the vacating member was appointed. Appointments to fill a vacancy shall be for the balance of the term vacated.

Members who were appointed for an initial term of less than six years, or who were appointed to fill a vacancy, shall be eligible for reappointment. However, no member shall be reappointed more than once or serve as a member for more than 10 years.

(d) *Powers and Duties.* The Board shall have the authority to:

(1) Render advisory opinions regarding proper judicial conduct under the Codes. The Board may not issue an advisory opinion interpreting a judicial officer’s obligations under any provision of law that does not relate to judicial ethics.

(2) Appoint an Executive Director and such other staff and experts as may from time to time be required to perform properly the functions prescribed by orders of the Supreme Court and these rules.

(3) Adopt regulations pertaining to its processes, which regulations shall not be inconsistent with these rules and shall be subject to approval by the Supreme Court.

(4) Develop a course of training in judicial ethics, which course shall be subject to approval by the Judicial Education Board, and which must be completed by every Board member prior to beginning service on the Board.

(5) Make recommendations to the Supreme Court regarding amendments to the Codes and these rules.

(6) Make recommendations to the Continuing Judicial Education Board and the Minor Judiciary Education Board regarding topics for judicial education.

(7) Undertake such other related duties as may be requested of the Board by the Supreme Court.

(e) *Duty to Report.* The Board will provide a summary of its activities to the Supreme Court on an annual basis.

Subchapter B. REQUESTS FOR JUDICIAL ADVISORIES; ACTIONS BY THE BOARD; RULES OF RELIANCE

Rule 202. Assignment to Panel; Composition of Panel.

Every Request shall be assigned an identifying number. The Chair or the Chair’s designee will assign the Request to a three-member panel of the Board (“Panel”). At least one member of the Panel shall be a judicial officer from

the same level of the judicial system as the inquiring judicial officer. **If the inquiring judicial officer is from the Philadelphia Municipal Court, at least one member of the Panel shall be either a judge of the Municipal Court or a judge of any court of common pleas.** If the inquiring judicial officer is a Justice of the Supreme Court, at least one member of the Panel shall be a judge of the Superior Court or Commonwealth Court.

Rule 206. Rules of Reliance.

(a) Where a judicial officer complies with Advice that is subsequently adopted as a Board Opinion, such compliance shall be entitled to substantial weight in determining whether discipline should be recommended or imposed.

(b) Where a judicial officer complies with Advice that is subsequently reversed or modified by the Board, compliance prior to the time the judicial officer is notified of the Board's action shall be **[taken into account in determining whether discipline should be recommended or imposed] entitled to substantial weight in determining whether discipline should be recommended or imposed.**

(c) Where a judicial officer complies with General Guidance, such compliance may be taken into account in determining whether discipline should be recommended or imposed.

(d) Informal or informational discussions with Board members or Board staff shall not be afforded consideration in determining whether discipline should be recommended or imposed.

[Pa.B. Doc. No. 24-327. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 207—JUDICIAL CONDUCT

PART V. JUDICIAL ETHICS ADVISORY BOARD

[207 PA. CODE CH. 3]

Omnibus Amendments to the Regulations of the Pennsylvania Judicial Ethics Advisory Board; No. 614 Judicial Administration Docket

Order

Per Curiam

And Now, this 28th day of February, 2024, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, *It Is Ordered* that:

The Regulations of the Pennsylvania Judicial Ethics Advisory Board are amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and in brackets.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART V. JUDICIAL ETHICS ADVISORY BOARD CHAPTER 3. REGULATIONS OF THE JUDICIAL ETHICS ADVISORY BOARD

Rule 1.0. Preamble.

1.1. Purpose.

[As a unified body, independent from the judicial conduct structures of the Judicial Conduct Board and Court of Judicial Discipline, t]The Judicial Ethics Advisory Board **[(JEAB)]** is the designated and approved body to render advice, **[and]** opinions, **and guidance** regarding appropriate ethical conduct involving all judicial officers and candidates for all judicial offices who are subject to the Code of Judicial Conduct and/or the Rules Governing Standards of Conduct of Magisterial District Judges (collectively, the “Codes”).¹

1.2. Mission Statement.

To ensure the continued integrity and public trust of Pennsylvania's judiciary, the Judicial Ethics Advisory Board shall, upon request, provide Advice and/or Opinions to any Judicial Officer or judicial candidate based on the Codes. **[The Advice and Opinions shall strive, where appropriate, to distinguish between mandatory and aspirational provisions of the Codes so as to guide the conduct of Judicial Officers as required under the Codes.]**

Rule 2.0. Definitions.

All terms used in these Regulations shall have their ordinary meanings unless noted otherwise or as defined by the Pennsylvania Rules of the Judicial Ethics Advisory Board **[(Pa.R.J.E.A.B.)]** or these Regulations.

“*Advice/Panel Advice*” or “*Advisory Opinion*”—A Panel's written advisory opinion issued in response to a written Request received from a Judicial Officer.

“*Attendance*” or “*Attending*”—Board Members present at a Board meeting either in person or by electronic or other means permitting interaction between the Members.

“*Board*”—The Judicial Ethics Advisory Board.

“*Codes*”—Collectively, the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Judges.

“*Essential Member*”—The Member of a Panel who is of the same judicial level as the inquiring Judicial Officer.

“*General Ethics Guidance*”—A written opinion by the Board that the Board may, in its discretion, issue to address general ethics advisory guidance on any relevant topic under the Codes. General Ethics Guidance is not in response to a specific written request from a Judicial Officer.

“*Issuance*” or “*Issued*”—The act of communicating the written decision of a Panel or the Board to a Judicial Officer as provided for under these Regulations.

“*Judicial Officer*”—Any individual within the Application of the Codes, including judicial candidates.

¹ The **[JEAB]** **Judicial Ethics Advisory Board** supersedes the prior designations of committees of the Pennsylvania Conference of State Trial Judges and the Special Court Judges Association of Pennsylvania to render such advice or opinions.

“*Member*”—An individual appointed to the [**Judicial Ethics Advisory**] Board.

“*Opinion*”—A decision by the Board, as provided for under these Regulations, to either adopt, modify, or overrule the Advice of a Panel interpreting an inquiring Judicial Officer’s duties and obligations under the Codes, in response to a specific, factual scenario submitted for that purpose.

“*Panel*”—Three [**(3)**] Members of the Board whom staff appoints to render Advice in response to a Request from a Judicial Officer.

“*Request*”—A written submission by a Judicial Officer to the Board seeking an Advisory Opinion under Section 8.0 of these Regulations.

“*Regulations*”—These Judicial Ethics Advisory Board Regulations as adopted by the Board and [**as amended**] **approved** by the [**Board from time to time**] **Supreme Court**.

“**Rule**” or “**Rules**”—**Unless otherwise indicated, rule citations herein refer to [T]**the Pennsylvania Rules of the Judicial Ethics Advisory Board (Pa.R.J.E.A.B.).

“*Served or Service*”—The transmission of an Advice or Opinion of the Board whether by mail, email, fax, or some other authorized manner of secure delivery as provided for under these Regulations.

“*Staff*”—**The Executive Director of the Board [Employees of the JEAB, including] and any other full-time [,] and part-time personnel appointed by the Board under Rule 104(d)(2) [contract and/or designated agents of the JEAB, either current or future]**.

Rule 3.0. Board Membership.

3.1. *Officers.*

In accordance with [**Pa.R.J.E.A.B.**] Rule 104(a), the Supreme Court shall designate one Member to serve as Chair and another to serve as Vice-Chair.

3.2. The Chair shall:

3.2.1. [**Preside over the Board at all Board meetings.**

3.2.2. **Decide all points of order, subject to appeal by no less than 2/3 of those Members present.] With the assistance of the Executive Director, set the meeting agenda and determine the order in which Board business is addressed.**

3.2.2. **Preside over the Board at all Board meetings.**

3.2.3. [**The duties and powers of the Chair shall not be limited to those expressed herein but shall be subject to any law or rule otherwise duly promulgated and enacted] Exercise any other prerogatives or duties specifically delegated by the Board or referenced in these Regulations.**

3.3. The Vice-Chair shall [:

3.3.1. **Assist the Chair as requested or required.**

3.3.2. **Serve in place of the Chair if the Chair is unable to execute the duties and responsibilities of the position.] assume the prerogatives and duties**

of the Chair if the Chair position is vacant or the Chair is absent or unable to act.

3.4. *Standards of Member Conduct.*

3.4.1. Appellate and Trial Court Judge Members shall be bound by the Code of Judicial Conduct.

3.4.2. Magisterial District Judge Members shall be bound by the Rules Governing Standards of Conduct of Magisterial District Judges.

3.4.3. Attorney Members of the Board shall be bound by the Rules of Professional Conduct.

3.4.4. [**Pa.R.J.E.A.B.**] **Rule 105 (Confidentiality)** and Section 5.0 hereof[,] evidence a strong commitment to encourage Judicial Officers to seek ethics advisory opinions and that all such communications to and from the Board are to be confidential. In light of these objectives, Members are relieved of any obligation under the Codes to report to an appropriate authority conduct of a Judicial Officer that is the subject of a Request permitted under these Regulations.

3.5. *Conflicts.*

Members shall refrain from participating in the work of either a Panel or Board that pertains to their own Request or in any other matter where a Member’s impartiality might reasonably be questioned.

3.6. [**While acting in their official capacity, Judge Members shall be deemed to be performing a judicial function.] *Board Member Training.***

3.6.1. The Board shall develop a course of training on judicial ethics, as regulated by the Codes, which course of training will be subject to approval by the Continuing Judicial Education Board.

3.6.2. Every Board member shall complete the approved training prior to engaging in service on the Board.

3.6.3. A member may complete the required training either by attending in-person training or via a pre-recorded training program.

Rule 4.0. Board Meetings.

4.1. *Board Calendar.*

For reporting purposes, the Board shall operate on a [**fiscal**] **calendar** year beginning [**July**] **January** 1st and ending [**June 30th**] **December 31st**.

4.2. *Meeting Dates.*

The Board shall meet at least quarterly. At or prior to the last meeting of the Board for the [**fiscal**] **calendar** year, the [**Board**] **Chair** shall establish fixed meeting dates for the next Board Calendar. The Board may convene meetings at such other times as the Chair or a majority of the Members determine. Staff shall provide all Members due and timely notice of all Board meetings.

4.3. *Member Participation.*

Board Decisions are enhanced by the participation of all Members; therefore, Members are encouraged to attend each meeting in person and to participate in all Board discussions and decisions.

4.4. *Quorum.*

4.4.1. A majority of the Members of the Board shall constitute a quorum.

4.4.2. When less than a quorum of Members is in Attendance, it shall be the duty of the Chair or Vice-Chair to adjourn the meeting.

4.4.3. In the absence of the Chair and Vice-Chair, it shall be the duty of the [**most senior Member**] **Executive Director** to adjourn the meeting when less than a quorum is in Attendance. [**Seniority shall be established by date of admission to the Pennsylvania Bar.**]

4.5. *Voting and Decisions.*

Members must be in Attendance to vote. Proxy votes are not permitted. Votes or opinions expressed prior to discussion at a meeting of the Board shall not be considered for purposes of determining Board action.

4.5.1. Board Decisions shall be determined as follows:

a. A majority vote by the Members Attending a duly called Meeting of the Board shall be required to adopt, modify or reverse any Advice.

b. A majority vote of all Members shall be required to modify or reverse a previously issued Opinion of the Board.

c. A majority vote of all Members shall be required to modify, reverse, or adopt the issuance of a General Guidance.

Rule 5.0. Confidentiality.

Communications to and from the Board are confidential except as described here. Establishing the confidentiality of Board proceedings and communications to and from the Board is critical to encourage Judicial Officers [**and candidates for judicial office**] to seek ethics opinions and advice from the Board. Encouraging Judicial Officers [**and candidates for judicial office**] to seek ethics opinions and advice from the Board will promote ethical conduct and the fair administration of justice. The need for preserving confidentiality outweighs the need for disclosure in the interest of justice. Therefore, to implement [**Pa.R.J.E.A.B. No.] Rule 105 (Confidentiality)**, and to promote ethical conduct by Judicial Officers [**and candidates for judicial office**] and to encourage them to seek ethics opinions and advice from the Board, the following confidentiality requirements and exceptions apply to Requests and other matters before the Board:

5.1. *Confidentiality.*

With the exception of Opinions and General Ethics Guidance published by the Board under [**Pa.R.J.E.A.B. No.] Rules 204(b) (Publication of Board Opinions)** and (c) **(General Ethics Guidance)**, all Opinions, inquiries, replies, circulated drafts, records, documents, writings, files, communications with Staff, work product of the Board or Staff, and deliberations and proceedings of the Board are confidential.

5.2. *Members and Staff.*

Members of the Board and Staff may not disclose (outside the Board or Staff) any confidential information, including identifying information, obtained by the Board or Staff.

5.3. *Waiver of Confidentiality by Judicial Officer.*

A Judicial Officer [**or candidate for judicial office**] may waive confidentiality, and such a waiver must be in

writing. If a Judicial Officer [**or candidate**] making a request for an Opinion or Advice waives confidentiality or asserts reliance on an Opinion or Advice in judicial or attorney discipline proceedings, such Opinion or Advice no longer is confidential under these Rule. Notwithstanding any such waiver, Board deliberations and all other records concerning the Request shall remain confidential.

5.4. *Conclusion of Service by Members of the Board.*

Board Members shall return to Staff or destroy any records in their possession at the end of their terms of service.

Rule 6.0. [**JEAB**] **Board** Contact Information.

Any Judicial Officer may request an Advisory Opinion by submitting a Request to the Board in writing. Requests may be submitted via United States Mail, special courier, fax, or email.

6.1. *Mailing Address.*

The designated mailing address for any communications addressed to the [**JEAB**] **Board**, including Requests for Advisory Opinions, shall be:

Judicial Ethics Advisory Board
 Pennsylvania Judicial Center
 601 Commonwealth Avenue, Suite 6100
 PO Box 62333
 Harrisburg, PA 17106-2333

6.2. *Email Address.*

The designated email address for any communications sent to the [**JEAB**] **Board**, including Requests for Advisory Opinions, shall be:

JEAB@pacourts.us

6.3. *Fax Number.*

The designated fax number for any communications sent to the [**JEAB**] **Board**, including Requests for Advisory Opinions, shall be:

717-231-9594

6.4. *Electronic Mail.*

Any Board action required to be communicated in writing may be sent by electronic mail, provided such electronic mail includes the following language:

Confidentiality Statement: This electronic mail transmission (including attachments) is covered by the Electronics Communications Privacy Act, 18 U.S.C. §§ 2510—2521, is confidential, and/or may be legally privileged. The information is intended only for the use of the individual or entity named in this transmission. If you are not the intended recipient, you are hereby notified that any retention, dissemination, distribution, or copying, or the taking of any action in reliance on the contents of this transmission, is strictly prohibited. Please reply to the sender that you have received the message in error, and then delete it.

6.5. *Public Media.*

All requests for commentary or interview by the news media regarding the Board or Board business should be referred to either the [**Chair**] **Executive Director** or to the Supreme Court's Press and Communications Office at 717-231-3324.

Rule 7.0. Records and Files.

7.1. *Security.*

All records, papers, files, *etc.* of the JEAB shall be confidential and shall remain confidential. Staff shall

adequately secure all files and records of the Board, regardless of format (*i.e.*, paper and/or electronic), to ensure confidentiality.

7.2. *Storage Format.*

Paper documents shall be converted to an electronic format.

7.3. *Paper File Retention Schedule.*

All paper documents shall be maintained for one calendar year after conversion to an electronic format. Upon expiration of one year, paper records may be destroyed in a secure manner.

7.4. *Electronic File Retention Schedule.*

Electronic files shall be maintained according to the following schedule, or as otherwise required by law:

<i>Category</i>	<i>Time Measured From:</i>	<i>Mandatory Retention Period</i>
Requests for Advisory Opinion—No Jurisdiction	Date of receipt	Retain 2 years
Requests for Advisory Opinion—OPENED	Date of receipt	Permanent Record—Retain indefinitely
Advice	Date of Issuance	Permanent Record—Retain indefinitely
Opinion	Date of Issuance	Permanent Record—Retain indefinitely
General Guidance	Date of Adoption	Permanent Record—Retain indefinitely (in the event of a retirement or overruling of the General Guidance, the original shall nonetheless be maintained, although no longer published)
Miscellaneous Matters Where Official Action Taken	Date of receipt or creation of item	Retain 3 years
General Correspondence Records Not Relating to Official Action Taken	Date of receipt or creation of item	Retain 1 year
Financial Records: Journals, Invoices, Bills, Expense Reports, BEV, Receipts, etc.	Close of the year for which the records apply	Retain 7 years

<i>Category</i>	<i>Time Measured From:</i>	<i>Mandatory Retention Period</i>
Budget Preparation Files	Date of receipt or creation of item	Retain fiscal year plus 5 years or as otherwise provided by funding source
Minutes of Board Meetings	Date of Adoption by the Board	Permanent Record—Retain indefinitely
Training (Not Individual)	Date of event or completion	Retain 5 years after presentation is completed
Purchase Order Files	Date of receipt or creation of item	Retain 7 years

7.5. *Conflict with Other Retention Schedules.*

These schedules are intended to be consistent with those set forth in the Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts (AOPC) Record Retention & Disposition Schedule. Unless otherwise required by law, AOPC schedules shall govern.

7.6. *Mandatory Minimum Retention Periods.*

The record retention periods set forth herein are minimum retention terms, after which the files may be destroyed. The files may also be retained for longer than the established retention periods.

7.7. *Methods of Record Destruction.*

7.7.1. *Confidential Records.*

When confidential information may be contained in the records, shredding is the preferred method of destruction. Regardless of manner, destruction of records shall be by such a means as to permanently prevent the disclosure of the contents thereof.

7.7.2. *Non-Confidential Records.*

Records that do not contain confidential information may be shredded, incinerated, or otherwise destroyed according to general practice.

Rule 8.0. Panel Advice and Board Review.

Judicial Officers must submit Requests to the Board in writing under Section 6.0. A Request must contain a statement of the facts regarding the intended conduct and a concise question of judicial ethics, with references to the relevant section(s) of the Codes, case law, and other authority the inquiring Judicial Officer already has consulted. A Request must relate to the inquiring Judicial Officer’s own prospective conduct or conduct of the inquiring Judicial Officer that has occurred in the past and is ongoing. **The Board will not consider a Request by the inquiring Judicial Officer relating to the conduct or prospective conduct of another Judicial Officer except as necessary to address a Judicial Officer’s obligations pursuant to Rule 2.12 (Supervisory Duties) of the applicable Code.** A Request may not relate to hypothetical situations or to facts that are the subject of past or pending litigation, disciplinary investigation, or disciplinary proceedings. Judicial Officers must submit Requests at least 14 days prior to the event or action giving rise to the question. The Board Chair or the Chair’s designee may, in his or her discretion, waive this 14-day requirement for good cause and if the inquiry can be addressed in the time available.

8.1. *Request Intake.*

The Executive Director is designated and authorized to receive any and all Requests seeking an Advisory Opinion.

8.2. *Jurisdictional Closure.*

Any request for an Advisory Opinion from someone other than a Judicial Officer may be closed by the Executive Director for lack of jurisdiction without Board approval.

8.3. *Insufficient Request.*

If the [**JEAB**] **Board** receives a jurisdictionally appropriate Request but lacks sufficient information to render Advice, Staff will obtain additional facts from the **inquiring** Judicial Officer. Staff may close the Request **without Board approval** if the **inquiring** Judicial Officer fails or refuses to provide the requested information within [**fourteen (14)**] days.

8.4. *Panel Determination and Assignment.*

Following receipt of a Request, the Executive Director shall identify the level of the judicial system of the inquiring Judicial Officer. The Executive Director shall assign the Request to a [**pre-determined**] Panel [**approved by the Board**].

8.5. *Panel Member Assignment.*

[**In an effort to foster diversity and workload equality, e**] Each Member will rotate Panel assignments. [**Upon completion of a two (2) year cycle, each Member will have served with every other Member of the Board to the extent practical.**] Each Panel shall contain at least one Member of the same judicial level as the inquiring Judicial Officer. Panel makeup shall be confidential and shall not be disclosed except to **Board** Members and Staff [**of the JEAB**]. [**Individual Panel assignments shall rotate on a quarterly basis.**]

8.5.1. *Philadelphia Municipal Court Essential Member.*

For Requests originating from Judicial Officers of the Philadelphia Municipal Court, a Board member from the Municipal Court or any common pleas court shall be qualified to serve as an Essential Member of the Panel.

8.6. *Identity Redaction.*

The Judicial Officer's Request shall be redacted by Staff so the identity of the Judicial Officer shall not be known to the Panel or Board. Only Staff will have access to the identity of the inquiring Judicial Officer. The identity of an inquiring Judicial Officer may be disclosed to the Chair when, in the Chair's opinion, there is a clear and convincing need to know. At no time shall the Chair or [**s**] Staff intentionally disclose the identity of the inquiring Judicial Officer absent an explicit and express waiver by the inquiring Judicial Officer in writing, or the Chair believes disclosure is necessary for a clear and convincing reason.

[8.7. *Panel Action.*

The Essential Member of a Panel shall act as director of the Panel.

8.7.1. *Communication.*

Communication among the Panel, and between the Panel and Staff, shall be through or as authorized by the Essential Member.]

8.[**8**]7. *Advice.*

A Panel determination shall be deemed achieved upon a two-thirds [**(2/3)**] or greater consensus of the Panel. Once a [**consensus**] **determination** is reached, the determination of the Panel shall constitute the Advice, and Staff shall communicate the Advice to the inquiring Judicial Officer in writing.

8.7.1. All members of the Panel must respond before a Panel determination is reached.

8.7.2. The Panel membership shall remain confidential to the Requesting Judicial Officer.

8.[**9**]8. *Reconsideration of Advice.*

After a Panel issues an Advice following a Request by a Judicial Officer, the Judicial Officer [**shall have the ability to**] **may** seek reconsideration of the Panel Advice.

8.8.1. *Timing.*

A request for reconsideration of Panel Advice must be in writing and must be received by Staff within [**fourteen (14)**] **five** days of Service of the Panel Advice.

8.[**10**]9. *Board Review.*

After issuing Advice to the inquiring Judicial Officer, Staff shall circulate the Advice to the Board for review. Members shall respond in writing within twenty days of circulation by [**addressing**] **sending** any agreement, disagreement, or comment to Staff, and **by** sending a copy [**thereof**] **of any substantive comment or disagreement** to each Member of the Board. A Member who does not respond within the stated timeframe shall be presumed to agree with the Advice rendered. If there is no disagreement with the Advice, the Advice shall be deemed the Board Opinion, so long as no request for reconsideration is pending. A deemed Opinion shall be ratified by vote of the Board at the next meeting.

If a majority of the Board ([**five**] **seven** or more Members) register disagreement with an Advice, Staff shall notify the inquiring Judicial Officer promptly, and the matter shall be timely scheduled for Board resolution. The Board shall reach a Board Decision as to the Advice as soon as possible.

8.1[**1**]0. *Opinion Publication.*

The Board may adopt, modify, or reverse any Advice. Once a Board Decision has been reached under Regulation 4.5.1, the Board Decision shall constitute the Opinion of the Board. Staff shall promptly serve the Opinion of the Board upon the inquiring Judicial Officer. Publication by the Board of any Opinion shall occur only after the period for Board Reconsideration has expired.

8.1[**2**]1. *Dissenting Members.*

Any Member of the Panel or Board shall retain the right to dissent from the majority decision of either a Panel or the Board. [**A Member may, but is not required to, express an opposing view in writing. Any written dissent**] **Dissenting votes may be recorded and retained internally for future reference by the Board, but shall not be** [**part of**] **reflected on**

the issued Advice or Opinion. [**A dissent shall not identify the Member-author by name.**]

8.12. Reasoned Advice/Opinion.

8.12.1. The Panel Advice and Board Opinion shall be reasoned, in that they shall reference the relevant section(s) of the Codes, case law, and other authority consulted in reaching the conclusions contained therein and apply the same to the facts as set forth in the Request. The Board may also consider for their persuasive value publicly available advice or opinions from other state judicial ethics advisory bodies or courts on the subject of the Request.

8.12.2. Nothing in the Rules or these Regulations shall prohibit either the Board, a Panel, an individual Member, or Staff from citing, referencing, or considering any previously issued opinion or findings of the Ethics Committees of the Pennsylvania Conference of State Trial Judges and/or the Special Court Judges Association of Pennsylvania as persuasive authority in reaching a decision on a Request or in offering General Guidance.

8.12.3. The Panel Advice and/or Board Opinion shall set forth a conclusion as to whether facts regarding the intended conduct set forth in the Request give rise to a violation of any section(s) of the Code(s). Where possible and appropriate, the Panel Advice and/or the Board Opinion may provide a qualified response with accompanying advice on how the Judicial Officer may engage in the proposed conduct without violating the Code(s).

8.13. Reconsideration.

8.13.1. Under [**Pa.R.J.E.A.B.**] Rule 207 (**Reconsideration**), an inquiring Judicial Officer may submit a written request for reconsideration within twenty days of the Board's Opinion adopting, modifying, or reversing an Advice. The inquiring Judicial Officer shall present a detailed explanation setting forth the reason(s) why the Board should reconsider the Opinion.

8.13.2. If the Board declines to issue an Opinion, the inquiring Judicial Officer may seek reconsideration of the inaction within 20 days of Service of notice of the Board's inaction.

8.13.3. A Request for reconsideration must be in writing and must be received by Staff before 5:00 p.m. (EST) on the twentieth day following Service of an Opinion or Notice of Inaction. The [**twenty**] **20**-day period shall be calculated from the date of Service upon the inquiring Judicial Officer and shall be so computed as to exclude the first and include the last day of such period. Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of the Commonwealth or of the United States, such day shall be omitted from the computation.

8.13.4. A request for reconsideration filed with the Board will delay the publication of an Opinion but will not affect the Rule of Reliance unless the Board grants reconsideration.

8.13.5. If the Board grants reconsideration, the Board may take one or more of the following actions:

- (a) Adopt the Advice as originally issued.
- (b) Modify the issued Opinion.

(c) Withdraw the Opinion and take no further action; or

(d) Other action as the Board deems appropriate.

Rule 9.0. Service of Decisions.

When an inquiring Judicial Officer authorizes Service of Decisions through electronic means, Service shall be through email address confirmed by the inquiring Judicial Officer. Any electronic service of a decision through email shall be by pdf attachment [**accessible only through a password**].

If the inquiring Judicial Officer does not authorize electronic service, Service of Decisions shall be by First Class Mail. Service occurs upon deposit of the item with the U.S. Mail (First Class)[; or the date of acceptance by the Judicial Officer or an authorized agent (Certified Mail, Return Receipt Requested); or the date of transmission if issued by email or fax].

Staff shall serve an Opinion that reverses or modifies an Advice by Certified Mail, Return Receipt requested, in addition to any electronic Service.

Rule 10.0. Docketing/Numbering.

10.1. Request Number.

Regardless of format (paper correspondence, email, fax, etc.), [**the JEAB**] **Staff** will assign every written Request a sequential Request Number as required by [**Pa.R.J.E.A.B**] **Rule 202 (Assignment to Panel; Composition of Panel)**. The Request Number will be formatted as the letter "R" [Request] followed by a sequential number and the two-digit calendar year (RX-YY).

10.2. Advice Number.

Once Staff determines that a Request will be assigned to a Panel, Staff will assign the file an Advice Number. The Advice Number will be formatted as the last two digits of the calendar year followed by a sequential number beginning with 101 (YY-1xx).

10.3. Opinion Number.

Staff shall assign every Opinion of the Board [**with**] an Opinion Number. The Opinion Number will be formatted as a sequential number followed by JEAB and the four-digit calendar year (x-JEAB-YYYY).

Rule 11.0. General Ethics Guidance.

The Board, at its discretion, may issue general ethics advisory guidance (General Guidance) on topics of interest and concern to persons subject to the Codes. A subsequent Opinion of the Board regarding the same subject matter of General Guidance shall be deemed to supersede the prior General Guidance.

Rule 12.0. Exigent Circumstances.

Under [**Pa.R.J.E.A.B.**] **Rule 201 (Standards and Timing for Requests)**, a Judicial Officer may submit a Request to the Board in writing at least 14 days prior to the event or action giving rise to the question. The Chairperson may waive this requirement for good cause shown if exigent circumstances exist and a Panel can responsibly and meaningfully address the Request in the time available. In those instances, the following procedures shall apply:

12.1. Exigent Intake.

An inquiring Judicial Officer may initiate a Request by contacting Staff by telephone at 717-705-1785, by email to

JEAB@pacourts.us, or by the most expedient means available to the Judicial Officer. The Request should include all information required under these Regulations. If the Judicial Officer relays the information [**verbally**] **orally**, the Judicial Officer shall immediately commit the Request to writing directed to Staff. The inquiring Judicial Officer's failure to reduce the Request to writing shall preclude the [**JEAB**] **Board** from issuing an Advice.

12.2. *Exigent Panel Assignment.*

Upon receiving an exigent Request, Staff shall docket the Request, assign the Request a number as provided for under Section 10.0 of these Regulations, and forward the Request to a Panel for an Advisory Opinion.

12.3. *Exigent Advice.*

Unless the Panel declines to issue an Advisory Opinion because it cannot responsibly and meaningfully provide an Advice (which decision shall be immediately communicated to the Judicial Officer), the Panel shall expeditiously proceed to render an Advice that shall be communicated by Staff to the Judicial Officer. Where the Panel Advice is initially communicated [**verbally**] **orally**, the Panel shall promptly commit the Advice to writing, and Staff shall promptly Serve the written Advice on the Judicial Officer.

12.4. *Exigent Board Consideration.*

Once the Panel issues a written Advice, the Board shall then consider the Advice as provided for under Sections 8.10 through 8.13 of these Regulations.

Rule 13.0. [**Citation to Authority.**

Nothing in either the Rules or these Regulations shall prohibit either the Board, a Panel, an individual Member, or Staff from citing, referencing, or considering any previously issued opinion or findings of the Ethics Committees of the Pennsylvania Conference of State Trial Judges ("PCSTJ") and/or the Special Court Judges Association of Pennsylvania ("SCJAP") as persuasive authority in reaching a Board Decision as to an Advice, Opinion, or General Guidance.

Rule 14.0.] Waiver.

The Chair may, in its discretion, waive any administrative provision of these Regulations when, in the Chair's judgment, the proper interests of the Board and/or the interests of an inquiring Judicial Officer require such action by the Chair. Waiver of any confidentiality provision pertaining to a Judicial Officer shall not be allowed unless agreed to by the Judicial Officer.

Rule 1[**5**]4.0. Amendments.

These Regulations may be amended by a majority of the Board after giving at least [**thirty** (]30[)] days advance written notice of proposed changes to each Member.

1[**5**]4.1. *Court Approval.*

Under [**Pa.R.J.E.A.B.**] Rule 104(d)(3), Regulations are subject to approval by the Supreme Court. Any amendment shall take effect immediately upon approval by the Supreme Court or as otherwise ordered by the Supreme Court.

1[**5**]4.2. *Pending Amendments.*

Until the Court approves a proposed amendment, the Regulations as last adopted and approved shall remain in effect.

[Pa.B. Doc. No. 24-328. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CENTRE COUNTY

Local Rules 5102 and 5103 Custody of Exhibits in Court Proceedings; No. MD-332-2024; 2024-CM-0010

Order

And Now this 1st day of March 2024, it is hereby *Ordered* that, effective April 1, 2024, a Centre County Local Rule is hereby established to implement Local Rule 5102-5103 regarding the Custody of Exhibits in Court Proceedings.

Pursuant to Pennsylvania Rules of Judicial Administration 103(d) and after review and subsequent approval from the Supreme Court Rules Committee,

The Centre County District Court Administrator is *Directed* as follows:

(1) File one (1) copy of the Administrative Order with the Administrative Office of Pennsylvania Courts.

(2) File one (1) copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One (1) copy shall be sent to the Centre County Law Library and the editor of the *Centre County Legal Journal*.

(4) Publish a copy of the Administrative Order on the website of Centre County.

(5) Thereafter, compile the Administrative Order within the complete set of local rules no later than thirty (30) days following the publication in the *Pennsylvania Bulletin*.

It is further *Ordered* that a copy shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Centre County.

BY THE COURT:

JONATHAN D. GRINE,
President Judge

Local Rule 5102-5103 Custody of Exhibits in Court Proceedings.

Rule 5102. Custody of Exhibits General Provisions.

A. The court reporter or court recorder shall be designated as the "Custodian," as defined by Pa.R.J.A. 5101(a)(2), for all documentary exhibits, photographs, and photographs of non-documentary exhibits admitted or rejected during a court proceeding.

(1) If only one custodian is involved with a proceeding, they shall file with the Centre County Prothonotary/Clerk of Courts office all admitted or rejected exhibits and an index of the exhibits within 5 business days of the conclusion of the proceeding.

(2) If multiple custodians are involved with a proceeding, the first custodian shall provide the subsequent

custodian (and so on, if more than two custodians) with the admitted or rejected exhibits and index of exhibits. The custodian at the conclusion of the proceeding shall file with the Centre County Prothonotary/Clerk of Courts office all admitted or rejected exhibits and an index of the exhibits within 5 business days of the conclusion of the proceeding.

Rule 5103. Custody of Exhibits. Special Provisions.

A. The proponent shall retain custody of admitted or rejected non-documentary exhibits (including, but not limited to weapons, cash, other items of value, drugs, or other dangerous materials) and bulky, oversized, or otherwise physically impractical exhibits at all times during and after a court proceeding.

(1) All non-documentary exhibits must be photographed by the proponent, converted to a letter sized document (8 1/2 × 11 inches), and appropriately marked and produced during the court proceeding for inclusion in the documentary record.

(2) Unless otherwise provided by the presiding judge, at the conclusion of the court proceeding, non-documentary evidence shall be returned to the proponent for safekeeping as required by any applicable retention schedule, statute, rule, regulation, or policy, or until further order of court.

(3) Unless otherwise ordered, the proponent or filing office shall maintain non-documentary exhibits for a minimum of following time periods:

a. *Non-criminal matters.* Retain exhibits until the later of the expiration of the appeal period or final disposition of the appeal if one is taken.

b. *Criminal matters.* Retain exhibits pursuant to the Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts Record Retention and Disposition Schedule with Guidelines.

(4) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive or other court approved format. If one party has multiple digital exhibits, they may be submitted together on one USB flash drive or other court approved format.

(5) Any exhibit containing confidential information or confidential documents as defined in the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania (“Policy”) shall include a Confidential Information Form or Confidential Document Form in compliance with the Policy.

[Pa.B. Doc. No. 24-329. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CHESTER COUNTY

Adoption of Local Rules of Judicial Administration; 2024-0047R-CM

Administrative Order No. 2-2024

And Now, this 1st day of March, 2024, the following Chester County Rules of Judicial Administration (“Rules”) are adopted in their entirety.

Effective Date

These Rules shall become effective thirty (30) days from the date of their publication in the *Pennsylvania Bulletin*.

Procedural Compliance

In conformity with Pa.R.J.A. 103(c)(5)(ii-iii) and (6), the Chester County Court Administrator shall do the following:

1) Distribute two (2) paper copies of the Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, along with a copy of the Rules in an agreed upon format which complies with the requirements of 1 Pa. Code § 13.11.

2) File one copy of the Rules with the Administrative Office of Pennsylvania Courts.

3) Publish a copy of the Rules on the Chester County website.

4) Incorporate the Rules in the complete set of the published Chester County Court Rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

By the Court

JOHN L. HALL,
President Judge

CUSTODY OF EXHIBITS IN COURT PROCEEDINGS

C.C.R.J.A. Rule 5101. Preliminary Provisions.

(A) *Definitions.* The definitions described in Pa.R.J.A. 5101, including “court proceeding,” “custodian,” “exhibit,” “proponent” and “records office” are all incorporated herein by reference.

(B) *Scope.* Nothing in these rules shall limit the authority of a common pleas judge to enter an order, upon motion or sua sponte, concerning the custody, retention, or disposition of exhibits in any given matter.

(C) *Citing of Chester County Rules of Judicial Administration.* These rules shall be known as the Chester County Rules of Judicial Administration, each of which shall be cited as “C.C.R.J.A. Rule _____.”

C.C.R.J.A. Rule 5102. Custody of Exhibits. General Provisions.

(A) *During Criminal and Juvenile Delinquency Court Proceedings.* During a criminal or juvenile delinquency court proceeding, as well as during all such court proceeding breaks and recesses:

(1) The Clerk of Courts¹ shall serve as the custodian of:

(a) all documentary exhibits, photographs, and photographs of non-documentary exhibits; and

(b) all exhibits subject to Pa.R.J.A. 5103(c)(3) (relating to non-documentary exhibits that are bulky, oversized, or physically impractical for a court staff—custodian to maintain) that the Clerk of Courts does not direct the proponent to maintain and secure.

(2) The Commonwealth shall serve as the Clerk of Courts’ custodian designee of: all weapons, cash, other items of value, drugs or other dangerous materials, electronic devices,² contraband, and hazardous materials including, without limitation, guns, knives, explosives, controlled substances, narcotics, intoxicants, currency, money, negotiable instruments, toxic materials, and

¹ The Clerk of Courts office described herein is the same office described in Pa.R.J.A. 5101(a) as “clerk of court” and 42 Pa.C.S. § 2754 as “clerk of the courts.”

² “Electronic Devices” are any devices that store electronic data, including cell phones, computers, watches, electronic tablets, and USB drives.

biohazardous materials. When the Commonwealth serves as the custodian of an exhibit pursuant to this paragraph, the appropriate law enforcement agency designated to take such custody shall secure and safely maintain it at all times.

(3) The proponent shall serve as the custodian of: all exhibits subject to Pa.R.J.A. 5103(c)(3) (relating to non-documentary exhibits that are bulky, oversized, or physically impractical for a court staff—custodian to maintain) that the Clerk of Courts directs the proponent to maintain and secure.

(B) *After Criminal and Juvenile Delinquency Court Proceedings.*

(1) *Custodians.* Immediately upon conclusion of a court proceeding:

(a) The Clerk of Courts and Commonwealth shall retain all exhibits of which it took custody during the court proceeding pursuant to paragraph (A)(1).

(b) The Clerk of Courts and Commonwealth shall develop and implement internal operating procedures to ensure that:

(i) all exhibits are secured and maintained in a manner that protects them from loss, damage, degradation, and contamination; and

(ii) the chain of custody is fully documented and remains unbroken.

(iii) When the Commonwealth serves as the custodian of an exhibit pursuant to this paragraph, the appropriate law enforcement agency designated to take such custody shall secure and safely maintain it at all times.

(c) The Clerk of Courts and Commonwealth shall comply with the requirements of all applicable record retention schedules (the “schedules”), including, without limitation, the County Records Act, 16 P.S. §§ 13001 et seq., and Pa.R.J.A. 507. The time periods prescribed by the schedules shall be deemed minimum terms for the retention of exhibits. Generally, the Clerk of Courts and Commonwealth shall retain custody of exhibits until the subject defendant/adjudicated juvenile has completed his or her sentence and all possible appeals have been exhausted. The Clerk of Courts and any party to a court proceeding may request the court to direct that any exhibit be retained for a period longer than the minimum term prescribed herein and by the applicable schedules.

(2) *Index of Exhibits.* The Clerk of Courts shall prepare a list of all exhibits that are accepted or rejected from evidence during a court proceeding (the “Index”), including those exhibits that remain in the custody of the proponent(s). For each exhibit listed, the Clerk of Courts shall:

(a) identify the proponent and the exhibit number;

(b) describe or identify the exhibit;

(c) indicate whether the exhibit was admitted or rejected from evidence;

(d) indicate whether the exhibit is in the custody of the Commonwealth or another proponent; and

(e) indicate whether the exhibit is a substitute exhibit.

(C) *During Court Proceedings Involving Other Records Offices.*³ During a court proceeding involving other records offices, as well as during all such court proceeding breaks and recesses:

(1) The subject records office shall serve as the custodian of:

(a) all documentary exhibits, photographs, and photographs of non-documentary exhibits; and

(b) all exhibits subject to Pa.R.J.A. 5103(c)(3) (relating to non-documentary exhibits that are bulky, oversized, or physically impractical for a court staff—custodian to maintain) that the records office does not direct the proponent to maintain and secure.

(2) The court shall appoint an appropriate custodian designee of: all weapons, cash, other items of value, drugs or other dangerous materials, electronic devices, contraband, and hazardous materials, including, without limitation, guns, knives, explosives, controlled substances, narcotics, intoxicants, currency, money, negotiable instruments, toxic materials, and biohazardous materials. When the court appointed custodian designee takes custody of an exhibit it shall secure and safely maintain it at all times.

(3) The proponent shall serve as the custodian of: all exhibits subject to Pa.R.J.A. 5103(c)(3) (relating to non-documentary exhibits that are bulky, oversized, or physically impractical for a court staff—custodian to maintain) that the records office directs the proponent to maintain and secure.

(D) *After Court Proceedings Involving Other Records Offices.*

(1) *Custodians.* Immediately upon conclusion of a court proceeding:

(a) The records office and any court appointed custodian designee shall retain all exhibits of which it took custody during the court proceeding pursuant to paragraph (C)(1).

(b) The records offices and any court appointed custodian designee taking custody of exhibits during/after court proceedings shall develop and implement internal operating procedures to ensure that:

i. all exhibits are secured and maintained in a manner that protects them from loss, damage, degradation, and contamination; and

ii. the chain of custody is fully documented and remains unbroken.

(c) Those records offices and any court appointed custodian designees taking custody of exhibits after court proceedings shall comply with the requirements of all applicable record retention schedules (the “schedules”), including, without limitation, the County Records Act, 16 P.S. §§ 13001 et seq., and Pa.R.J.A. 507. The time periods prescribed by the schedules shall be deemed minimum terms for the retention of exhibits. Generally, the records offices shall retain custody of exhibits until all possible appeals have been exhausted. The records office and any party to a court proceeding may request the court to direct that any exhibit be retained for a period longer than the minimum term prescribed herein and by the applicable schedules.

(2) *Index of Exhibits.* Any records office taking custody of exhibits during or after a court proceeding shall prepare a list of all exhibits that are accepted or rejected from evidence during the court proceeding (the “Index”), including those exhibits that remain in the custody of the proponent(s). For each exhibit listed, the records office shall:

³ “Records Office” is defined in Pa.R.J.A. 5101, and the comments thereto, as including the clerk of courts, prothonotary and clerk of the orphans’ court. This paragraph (C), and the following paragraph (D), pertain to the prothonotary and clerk of the orphans’ court. The following sections, C.C.R.J.A. Rule 5103 and C.C.R.J.A. Rule 5105, pertain to all three of these records offices.

- (a) identify the proponent and the exhibit number;
- (b) describe or identify the exhibit;
- (c) indicate whether the exhibit was admitted or rejected from evidence;
- (d) indicate whether the exhibit is in the custody of the court appointed designee or a proponent; and
- (e) indicate whether the exhibit is a substitute exhibit.

C.C.R.J.A. Rule 5103. Custody of Exhibits. Special Provisions.

(A) *Documentary Exhibits.*

(1) Whenever a proponent offers into evidence an exhibit such as a letter, report, drawing, map, photograph, or other document that is larger in size than 8 1/2 × 11 inches, the proponent shall contemporaneously provide to the appropriate records office a copy of the document (said copy approved by the parties or the court) reduced to 8 1/2 × 11 inches (or smaller). The smaller-sized document, of which the records office shall assume custody, shall be entered into the record as the substitute exhibit (“substitute exhibit”) in lieu of the oversized original. The proponent shall retain custody of the oversized original.

(2) If exigent circumstances prevent the proponent from providing the smaller-sized document to the records office at the same time the proponent offers the oversized original into evidence, then the proponent shall file the smaller-sized document copy (said copy approved by the parties or the court) as the substitute exhibit with the records office not later than five (5) business days after the court proceeding has concluded.

(B) *Photographs.*

(1) Whenever a proponent offers into evidence a photograph that is larger in size than 8 1/2 × 11 inches, the proponent shall contemporaneously provide to the records office a copy of the photograph (said copy approved by the parties or the court) reduced to 8 1/2 × 11 inches (or smaller). The smaller-sized photograph, of which the records office shall assume custody, shall be entered into the record as the substitute exhibit in lieu of the oversized original. The proponent shall retain custody of the oversized original.

(2) If exigent circumstances prevent the proponent from providing the smaller-sized photograph to the records office at the same time the proponent offers the oversized original into evidence, then the proponent shall file the smaller-sized photograph copy (said copy approved by the parties or the court) as the substitute exhibit with the records office not later than five (5) business days after the court proceeding has concluded.

(C) *Non-documentary Exhibits: Generally.*

(1) Whenever a proponent offers into evidence a non-documentary exhibit, the proponent shall contemporaneously provide to the records office a photograph (said photograph approved by the parties or the court) of the exhibit (no larger in size than 8 1/2 × 11 inches). The photograph, of which the records office shall assume custody, shall be entered into the record as the substitute exhibit in lieu of the original non-documentary exhibit. The proponent shall retain custody of the original non-documentary original exhibit.

(2) If exigent circumstances prevent the proponent from providing the photograph to the records office at the same time the proponent offers the original exhibit into evidence, then the proponent shall file the photograph

(said photograph approved by the parties or the court) with the records office not later than five (5) business days after the court proceeding has concluded.

(D) *Method of Filing.* Whenever the permissible substitute exhibit for an original exhibit identified in paragraph (A)(1), (B)(1), or (C)(1) was not provided to the records office during a court proceeding, the proponent shall hand-deliver the substitute exhibit to the records office within the timeframes set forth in paragraphs (A)(2), (B)(2), and (C)(2). In no event shall the substitute exhibit be filed with the records office electronically or by mail.

(E) *Relief.* If a proponent does not timely file a permissible substitute exhibit for an original exhibit in accordance with C.C.R.J.A. Rule 5103(D), the records office and any party may seek appropriate relief from the court.

C.C.R.J.A. Rule 5105. Access and Inspection of Exhibits by the Public, Court Staff, and Appellate Courts.

(A) *Public Access and Inspection.* Upon request pursuant to Section 4.0 of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania (the “Public Access Policy”), the applicable custodian shall make an exhibit available to any member of the public for inspection, provided that the exhibit is not:

- (1) subject to the confidentiality provisions of the Public Access Policy;
- (2) sealed pursuant to court order, whether during or after a court proceeding; or
- (3) otherwise exempted from public access pursuant to federal law, state law, or state court rule.

The applicable custodian’s response to any request for public access and inspection shall comport with Section 5.0 of the Public Access Policy.

(B) *Access and Inspection by Court Staff.* Notwithstanding the provisions of paragraph (A), any member of court staff acting in his/her official capacity (“court staff”) may access and inspect any non-sealed exhibit necessary to perform his/her official duties; provided, however, that no exhibit shall be released into the temporary custody of court staff absent a court order containing the applicable case caption, the number(s) of the exhibit(s) to be released, and a date certain by which court staff must return the exhibit(s) to the applicable custodian. If court staff does not return the exhibit(s) to the applicable custodian on or before the date certain specified in the order, the custodian may seek appropriate relief from the court.

(C) *Transmission of Exhibits for Purposes of Appeal.* After an appeal has been filed, the subject records office having custody of exhibits after court proceedings shall transmit exhibits to an appellate court as provided in Pa.R.A.P. 1931(c); provided, however, that no exhibit sealed in the court of common pleas shall be transmitted unless the court, a party or the prothonotary of the appellate court directs the records office to do so. Any such exhibit sealed in the court of common pleas shall remain under seal when transmitted to the appellate court.

[Pa.B. Doc. No. 24-330. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTIES

Adoption of 39th Jud.Dis. Rules Jud.Adm. 1901 and 1901.1 and Rescission of Other Rules; Administrative Order re: 2024-634

Order

And Now, this 26th day of February, 2024, pursuant to Pennsylvania Rule of Judicial Administration 103(c), the 39th Judicial District hereby adopts 39th Jud.Dis. Rules Jud.Adm. 1901 and 1901.1, for both Franklin and Fulton Counties, effective thirty (30) days after the publication of same in the *Pennsylvania Bulletin*. Additionally, the Court rescinds the previously adopted local rules within the 39th Judicial District: 39-1901 and 39-1901.1.

Accordingly, Mr. Mark Singer, District Court Administrator for the 39th Judicial District, is ordered and directed to do the following:

1. Email one (1) copy of this Order and the following rules to the Administrative Office of Pennsylvania Courts (AOPC) at adminrules@pacourts.us.

2. Mail one (1) paper copy of this Order and the following rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* to the following address: Pa. Code and Bulletin, Legislative Reference Bureau, 647 Main Capitol Building, Harrisburg PA 17120.

3. Email one (1) copy of this Order and the following rules in Microsoft Word format only to the Legislative Bureau at bulletin@palrb.us for publication in The *Pennsylvania Bulletin*.

4. File one (1) copy of this Order and the following rules with the Prothonotary in Franklin County and the Prothonotary in Fulton County, and mail one (1) copy to the Franklin County Law Library for public inspection and copying.

5. Publish a copy of this Order and the following rules on the Franklin County Court website and the Fulton County Court website.

6. Incorporate and publish the following rules into the 39th Judicial District's set of local rules on the Franklin County Court website and the Fulton County Court website not later than 30 days after the Rules have been published in the *Pennsylvania Bulletin*.

By the Court

SHAWN D. MEYERS,
President Judge

39th Jud.Dis. R. Jud. Adm. 1901. Termination of Inactive Cases.

(a) *List of Cases for Termination.* Not less than once per year, the Prothonotary shall prepare a list of cases where there has been no activity of record for two years or more prior thereto, except those actions governed by Pa.R.C.P. 1915.4(b). The list shall be generated sufficiently in advance of the proposed termination date to provide the parties with at least thirty (30) days' written notice of the proposed termination.

(b) *Issuance and Service of Notice of Proposed Termination of Court Case.* For each case on the list, the Court shall issue a written Notice of Proposed Termination of Court Case to counsel of record and to self-represented parties for whom no appearance of counsel has been entered. The Notice of Proposed Termination of Court Case shall be served pursuant to Pa.R.C.P. 230.2(b)(2).

(c) *Content of Notice of Proposed Termination of Court Case.* The Notice of Proposed Termination of Court Case shall be on a form developed by the Court consistent with Pa.R.J.A. 1901(c)(3). The Notice shall contain a brief identification of the matter to be terminated, the date of the proposed termination, and the procedure to avoid termination consistent with Pa.R.J.A. 1901(c)(1). The Notice shall be in the form following the conclusion of this Rule.

(d) *Form of Written Statement of Intention to Proceed.* The written Statement of Intention to Proceed shall be filed with the Prothonotary on or before the termination deadline stated on the Notice of Proposed Termination of Court Case. The Written Statement of Intention to Proceed shall be in the form following the conclusion of this Rule.

(e) *Orders for Termination and Removal from the Civil Docket.* If a written Statement of Intention to Proceed is not docketed before the termination deadline set forth within the written Notice of Proposed Termination of Court Case, the Prothonotary shall enter an order dismissing the matter for failure to prosecute consistent with the provisions of this Rule and Pa.R.C.P. 230.2(c). However, any matter terminated may be reinstated by the Court after dismissal upon written petition pursuant to Pa.R.C.P. 230.2(d). The Prothonotary's termination order shall be in form following the conclusion of this Rule.

(f) *Mandatory Status Conference.* Upon receipt of a party's written Statement of Intention to Proceed pursuant to subdivision (d), the Court shall enter an Order scheduling a status conference to establish timelines to ensure efficient disposition of the case, consistent with Pa.R.C.P. 230.2(h).

THE COURT OF COMMON PLEAS OF THE 39th JUDICIAL DISTRICT OF PENNSYLVANIA— FRANKLIN COUNTY

(Caption)

NOTICE OF PROPOSED TERMINATION OF COURT CASE

The above captioned case is described as _____.

The Court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the Court from terminating the case by filing a written Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with the Franklin County Prothonotary at 14 N. Main St., Chambersburg, PA 17201, on or before _____ (Date of Proposed Termination).

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED BY THE COURT WITHOUT FURTHER NOTICE.

BY THE COURT:

Date of this Notice

President Judge

Distribution:
Plaintiff's Counsel/Party
Defense/Opposing Counsel/Party

**THE COURT OF COMMON PLEAS OF THE 39th JUDICIAL DISTRICT OF PENNSYLVANIA—
FULTON COUNTY**

(Caption)

NOTICE OF PROPOSED TERMINATION OF COURT CASE

The above captioned case is described as _____ .

The Court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the Court from terminating the case by filing a written Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with the Fulton County Prothonotary at 201 North Second Street, McConnellsburg, PA 17233, on or before _____ (Date of Proposed Termination).

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED BY THE COURT WITHOUT FURTHER NOTICE.

BY THE COURT:

Date of this Notice

President Judge

Distribution:
Plaintiff's Counsel/Party
Defense/Opposing Counsel/Party

**THE COURT OF COMMON PLEAS OF THE 39th JUDICIAL DISTRICT OF PENNSYLVANIA—
FRANKLIN COUNTY**

(Caption)

Statement of Intention to Proceed

To the Court:

Franklin County Prothonotary
14 N. Main St.
Chambersburg, PA 17201

_____ intends to proceed with the above captioned matter.

Date: _____

Party Signature or Attorney for

Distribution:
Opposing Counsel/Party

THE COURT OF COMMON PLEAS OF THE 39th JUDICIAL DISTRICT OF PENNSYLVANIA—
FULTON COUNTY

(Caption)

Statement of Intention to Proceed

To the Court:

Fulton County Prothonotary
201 North Second Street
McConnellsburg, PA 17233

_____ intends to proceed with the above captioned matter.

Date: _____

Party Signature or Attorney for

Distribution:
Opposing Counsel/Party

THE COURT OF COMMON PLEAS OF THE 39th JUDICIAL DISTRICT OF PENNSYLVANIA—
FRANKLIN COUNTY

(Caption)

ORDER

AND NOW THIS ____ day of _____, 20 __, upon review of the record, more than 30 days has passed since the service of the Notice of Proposed Termination of Court Case, and the Court received no Statement of Intention to Proceed. Accordingly,

IT IS HEREBY ORDERED that the above captioned matter is TERMINATED for failure to prosecute pursuant to Pa.R.C.P. 230.2(c).

Pursuant to Pa.R.C.P. 236, the Prothonotary shall give written notice of the entry of this Order, including a copy of this Order, to each party, and shall note in the docket the giving of such notice and the time and manner thereof.

PER THE PROTHONOTARY:

Franklin County Prothonotary
14 N. Main St.
Chambersburg, PA 17201

Distribution:
Plaintiff's Counsel/Party
Defense/Opposing Counsel/Party

THE COURT OF COMMON PLEAS OF THE 39th JUDICIAL DISTRICT OF PENNSYLVANIA—
FULTON COUNTY

(Caption)

ORDER

AND NOW THIS ____ day of _____, 20 __, upon review of the record, more than 30 days has passed since the service of the Notice of Proposed Termination of Court Case, and the Court received no Statement of Intention to Proceed. Accordingly,

IT IS HEREBY ORDERED that the above captioned matter is TERMINATED for failure to prosecute pursuant to Pa.R.C.P. 230.2(c).

Pursuant to Pa.R.C.P. 236, the Prothonotary shall give written notice of the entry of this Order, including a copy of this Order, to each party, and shall note in the docket the giving of such notice and the time and manner thereof.

PER THE PROTHONOTARY:

Fulton County Prothonotary
201 North Second Street
McConnellsburg, PA 17233

Distribution:
Plaintiff's Counsel/Party
Defense/Opposing Counsel/Party

39th Jud.Dist.R.Jud.Adm. 1901.1. Termination of In-active Cases before the Magisterial District Courts.

(a) *Cases for Termination.* At least once a year, the district court shall initiate proceedings to terminate cases in which there has been no activity of record for two years or more and shall report such information to the District Court Administrator or their designee.

(b) *Issuance and Content of Notice of Proposed Termination of Court Case.* For each case identified pursuant to subdivision (a), the district court shall serve a Notice of Proposed Termination of Court Case on all counsel of record, and on the parties, if not represented, at least 30 days prior to the date of the proposed termination. The Notice shall contain a brief identification of the matter to be terminated, the date of the proposed termination, and

the procedure to avoid termination. The written Notice of Proposed Termination of Court Case shall be in the form following the conclusion of this Rule.

(c) *Service of Proposed Termination of Court Case.* The Notice of Proposed Termination of Court Case shall be served on all counsel of record and on the parties, if not represented, consistent with Pa.R.C.P. 230.2(b)(2).

(d) *Orders for Termination.* If no Statement of Intention to Proceed has been received by the district court on or before the date of the proposed termination, the magisterial district judge shall enter an order as of course terminating the matter for failure to prosecute. The order shall be in the form following the conclusion of this Rule.

(e) *Form of the Written Statement of Intention to Proceed.* The written Statement of Intention to Proceed shall be in the form following the conclusion of this Rule.

(Caption)

NOTICE OF PROPOSED TERMINATION OF COURT CASE

The above captioned case is described as _____ .

The Court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the Court from terminating the case by filing a written Statement of Intention to Proceed in the form prescribed by 39th Jud.Dist.R.Jud.Adm. 1901.1(e). The Statement of Intention to Proceed should be filed with the Magisterial District Court Office, on or before _____ (Date of Proposed Termination).

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED BY THE COURT WITHOUT FURTHER NOTICE.

BY THE COURT:

Date of this Notice

Magisterial District Judge
Address

Distribution:
Plaintiff's Counsel/Party
Defense/Opposing Counsel/Party

(Caption)

ORDER

AND NOW THIS ____ day of _____, 20 ____, upon review of the record, more than 30 days has passed since the service of the Notice of Proposed Termination of Court Case, and the Magisterial District Court received no Statement of Intention to Proceed. Accordingly,

IT IS HEREBY ORDERED that the above captioned matter is TERMINATED for failure to prosecute pursuant to Pa.R.C.P. 230.2(c).

Pursuant to Pa.R.Civ.P.M.D.J. 207.1(C), the Magisterial District Court shall give written notice of the entry of this Order, including a copy of this Order, to each party, and shall note in the docket the giving of such notice and the time and manner thereof.

BY THE COURT,

 Magisterial District Judge
 Address

Distribution:
 Plaintiff's Counsel/Party
 Defense/Opposing Counsel/Party

(Caption)

Statement of Intention to Proceed

To the Court:

Magisterial District Court Office
 Address

_____ (print name of party) intends to proceed with the above captioned matter.

Date: _____

 Party Signature or Attorney for

Distribution:
 Opposing Counsel/Party

[Pa.B. Doc. No. 24-331. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

JEFFERSON COUNTY

Custody of Exhibits During and After Court Proceedings; No. 5-2024 A.D.

Order

And Now, this 29th day of February 2024, *It Is Ordered That* Jefferson County Local Rule of Judicial Administration 5104 (governing custody of exhibits) is hereby adopted in the following form:

Rule 5104. Custody of Exhibits.

(a)(1) During jury trials, an employee from the Prothonotary/Clerk of Courts' Office shall safeguard and maintain exhibits. If no one from that office is available, that duty shall fall to the official Court Recorder. In all other proceedings over which a judge is presiding, the Court Recorder or judge shall safeguard and maintain exhibits.

(a)(2) After a verdict is rendered in a jury trial, an employee from the Prothonotary/Clerk of Courts' office shall take immediate possession of the exhibits for filing and shall prepare an accompanying index of exhibits in accordance with Pa.R.J.A. 5102(b)(2). For all other proceedings, the Court Recorder or judge shall take possession of the exhibits and a judicial employee shall prepare the accompanying index. If a written decision will be rendered at a later date, the exhibits and their index shall be filed with the corresponding decision. Otherwise,

the Court Recorder shall remit the exhibits and index to the Prothonotary/Clerk of Courts' office for filing within 5 business days.

(a)(3) A proponent of a non-documentary or photographic exhibit shall enter into evidence a representative photograph (or multiple photographs if more than one perspective is evidentially relevant) of the item. Said photograph(s) will be filed with the record. Additionally, a proponent of documentary exhibits collectively totaling more than 50 pages shall, along with the physical documents, enter into evidence a corresponding CD, flash drive, or similar electronic medium to be filed with the record.

(a)(4) Unless otherwise directed by the judge, the proponent of any exhibit that is not in documentary or photographic form shall retake possession of the exhibit and maintain it in a secure location until the relevant exhibit retention period has expired. See Destruction of Exhibits, below. The Court Recorder or judge shall take possession of the physical copies of documents and photographs entered into evidence via an electronic device and shall dispose of them once they are no longer necessary for disposition of the matter in the trial court.

(b) Hearings held before a master, hearing officer, board of arbitrators, or magisterial district judge shall not be subject to the requirements set forth in subsection (a) of this Rule.

Destruction of Exhibits. All exhibits not subject to an existing rule, e.g., a rule governing the retention of records, may be disposed of, at the earliest, in accordance with the following time schedule:

Non-criminal matters. Ninety (90) days after final disposition in the trial court or, if an appeal is taken, ninety (90) days after final disposition in the highest court to which an appeal is taken.

Criminal matters.

1. *Homicide cases.* Seventy-five (75) years.
2. *Summary cases.* Five (5) years.
3. *All other cases.* Twenty (20) years.

This Order shall become effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*.

By the Court

HON. JOHN HENRY FORADORA,
President Judge

[Pa.B. Doc. No. 24-332. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MERCER COUNTY

Amendments to Local Rules of Judicial Administration; Order No. 2024-636

And Now, this 29th day of February 2024, the Court hereby *Approves, Adopts, and Promulgates* the following Amendments to the Mercer County Local Rules of Judicial Administration to include the following provisions regarding Custody of Exhibits.

It Is Further Ordered and Directed that the District Court Administrator of Mercer County shall file one (1) certified copy of the Amendments with the Administrative Office of the Pennsylvania Courts and furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

It Is Further Order and Directed that these Amendments shall be kept continuously available for public inspection and copying in the Office of the Clerk of Courts of Mercer County and the Office of the Prothonotary of Mercer County. This Order shall be published in the *Mercer County Law Journal*.

By the Court

DANIEL P. WALLACE,
President Judge

AMENDMENTS TO LOCAL RULES OF JUDICIAL ADMINISTRATION REGARDING CUSTODY OF EXHIBITS

A. The Local Rules of Judicial Administration shall be amended to add the following:

Rule 5102. General Provisions.

For all court proceedings, the court reporter, court recorder, or court monitor shall be designated as the "Custodian," as defined by Pa.R.J.A. 5101(a)(2), for all submitted exhibits, either accepted or rejected, during a court proceeding.

(a) Within 5 business days of the conclusion of a court proceeding, the Custodian shall file an index of all submitted exhibits with the appropriate records office, on a form that complies with Pa.R.J.A. 5102(b)(2).

(b) If there are multiple Custodians involved with a proceeding, the first Custodian shall provide the subsequent Custodian (and so on, if more than two Custodians)

with the submitted exhibits and the index of exhibits. The Custodian at the conclusion of the proceeding shall be responsible for filing an index of exhibits with the appropriate records office within 5 business days of the conclusion of the proceeding.

Rule 5103. Custody of Exhibits. Special Provisions.

(a) The Custodian shall retain all exhibits during court proceedings.

(b) Unless otherwise provided by the presiding judge, at the conclusion of the court proceeding, the Custodian shall retain all exhibits and shall arrange for their storage and maintenance in the secured exhibit storage room, in accordance with any applicable retention schedule, statute, rule, regulation, or policy, or until further Order of Court.

(c) Unless otherwise ordered, the Custodian shall maintain all exhibits for a period of ten years except for exhibits submitted in a homicide case, which shall be maintained permanently.

(d) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive (or other format if expressly approved by the Court). If one party has multiple digital exhibits, they may be submitted together on one USB flash drive.

(e) Any exhibit containing confidential information or equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 shall include a Confidential Document Form so that the document can be properly sealed.

[Pa.B. Doc. No. 24-333. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHUMBERLAND COUNTY

Local Rule—NCV-5102; No. AD-2024-3

Order

And Now, this 1st day of March, 2024, it is hereby *Ordered* that Local Rule of Judicial Administration, NCV—5102 is adopted effective April 1, 2024.

The Northumberland County District Court Administrator is directed as follows:

(1) File one (1) copy to the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

(2) One paper copy mailed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* to the following address:

Pa. Code and Bulletin
Legislative Reference Bureau
647 Main Capitol Building
Harrisburg, PA 17120

And another copy e-mailed in a Microsoft Word format only to bulletin@palrb.us.

(3) One copy shall be sent to the Editor of the *Northumberland County Legal Journal*.

(4) Publish a copy of the Administrative Order with Local Rule on the web site of Northumberland County.

(5) Thereafter, compile the Local Rule within the complete set of local rules no later than 30 days following the publication in the *Pennsylvania Bulletin*.

It is further *Ordered* that a copy of the Local Rule shall be kept continuously available for public inspection and copying in the office of the Prothonotary of Northumberland County.

By the Court

PAIGE ROSINI,
President Judge

Rule NCV 5102. Custody of Exhibits.

Local Rule of Judicial Administration 5102 is issued to align practice and procedure of Northumberland County Court of Common Pleas with Pa.R.J.A. 5101—5105. This local rule incorporates the terms of art and their definitions as set forth in Pa.R.J.A. 5101. Reference to Pa.R.J.A. 5101—5105 shall be made when interpreting Northumberland County Local Rule 5102 and when determining the procedure and practice for Exhibit Retention in Northumberland County. This local rule does not apply to any record hearing which may be appealed de novo to the Court of Common Pleas or upon which exceptions or objections can be filed to the Court of Common Pleas.

1. A. Until the conclusion of a proceeding, the proponent (the party moving the exhibit into evidence) of any exhibit being offered into evidence shall be its custodian and is responsible for safeguarding and maintaining the exhibit. At the conclusion of the proceeding, the proponent shall submit to the Court 1) the exhibits offered into evidence; and 2) a numbered list of exhibits offered into evidence including a) a textual description or identification of each exhibit; and b) whether the exhibit was admitted into or rejected from evidence by the Court.

B. After the proceeding, the Office of the Court Administrator, or its designee, shall be designated as the “Custodian”, as defined by Pa.R.J.A. 5101(a)(2), for all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted during the court proceeding. The custodian shall file with the appropriate records office (Prothonotary/Clerk of Courts/Orphans Court) all submitted exhibits and index of exhibits within five (5) business days of the conclusion of the proceeding.

2. Prior to the proceeding, the proponent (the party moving the exhibit into evidence) shall assure that documentary evidence is in a format, including size and material, that is compatible with being filed, viewed, and easily stored by the records office, namely 8.5 × 11-inch paper printed only on one side. If, due to the nature or size of the exhibit, it is not easily capable of storage by the records office, then the records office may request that alternate measures be undertaken for storage of this documentary evidence. If the total number of pages of exhibits from a proponent is in excess of twenty-five (25), the proponent shall submit the exhibits to the court on a USB drive.

3. The proponent (the party moving the exhibit into evidence) shall retain custody of physical evidence, including, but not limited to, weapons, cash, other items of value, drugs, other dangerous materials, bulky, oversized, or otherwise physically impractical exhibits at all times before and after a court proceeding.

A. These non-documentary exhibits must be photographed by the proponent, converted to a letter-sized (8.5 × 11 inch) document, and appropriately marked and produced during the court proceeding for inclusion in the documentary record.

B. Unless otherwise provided by the presiding judge, at the conclusion of the court proceeding, non-documentary evidence shall be returned to the proponent for safekeep-

ing as required by any applicable retention schedule, statute, rule, regulation, or policy, or until further order of court.

4. Unless otherwise ordered, the proponent shall maintain non-documentary exhibits for a minimum of the following time periods:

A. *Non-criminal matters.* Retain exhibits until the expiration of the appeal period or the final disposition of the appeal if one is taken, whichever is later.

B. *Criminal matters:*

i. *Homicides*—75 years.

ii. *Felony cases*—20 years.

iii. *Misdemeanor cases*—10 years.

iv. *Summary cases*—5 years.

5. Any digital exhibit that cannot be printed (i.e. audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive, or other format if expressly approved by the court. If one party has multiple digital exhibits, they may be submitted together on one USB flash drive.

6. Any exhibit containing confidential information or equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 shall include a Confidential Document Form so that the document can be properly sealed by the record office.

Adopted February 29, 2024, effective April 1, 2024.

[Pa.B. Doc. No. 24-334. Filed for public inspection March 15, 2024, 9:00 a.m.]

Title 255—LOCAL COURT RULES

YORK COUNTY

Adoption of Local Rule of Judicial Administration 5104 and Renumbering of Rule 7040; CP-67-AD-8-2024; 2024-MI-188; 6724-0533

Administrative Order Adopting York County Rule of Judicial Administration 5104 and Renumbering Rule 7040 Regarding Custody and Presentation of Exhibits in Court Proceedings

And Now, this 4th day of March, 2024, it is *Ordered* that York County Local Rule of Judicial Administration 5104 is adopted, and Rule 7040 is renumbered, effective April 1, 2024.

The District Court Administrator shall publish this order as may be required.

By the Court

MARIA MUSTI COOK,
President Judge

Material to be added is bolded and underlined.

Material to be deleted is bolded and bracketed.

Rule 5104. Custody and Presentation of Exhibits in Court Proceedings.

(A) This Rule shall apply to all record proceedings before this Court of Common Pleas.

(B) Designation of Custodian. Pursuant to Pa.R.J.A. 5102, each proponent offering evidence is designated as the custodian of that evidence at all

times prior to the Court directing transfer of custody of the evidence to the appropriate filing office.

(C) Exhibit Tracking Form.

(1) Each proponent shall prepare exhibit tracking indexes utilizing a form to be designated by this Court and made available by the District Court Administrator through each filing office.

(2) Each proponent, at or prior to the beginning of the proceeding, shall provide copies of the exhibit tracking indexes to the presiding judge or hearing officer and opposing counsel or self-represented litigants.

(3) Proponents shall not include any information on the indexes that would require designation of the indexes as confidential documents pursuant to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

(4) Each proponent shall annotate the original exhibit tracking indexes throughout the proceeding.

(5) When directed by the Court, each proponent and the filing office representative shall note the physical and custodial transfer of exhibits to the filing office on the original exhibit tracking indexes, at which time the filing office shall become custodian of the exhibits. Typically, this transfer shall take place in the courtroom at the conclusion of the proceeding. However, if an exhibit is large, valuable, dangerous, or requires reproduction as a facsimile for inclusion in the record, the Court may direct that the transfer of exhibits to the filing office occur at a later time or location as agreed upon by the proponent, filing office, and other interested parties.

(6) The filing office shall make the original exhibit tracking indexes part of the record of the case.

(7) Any party may request copies of the completed exhibit tracking indexes from the filing office after conclusion of the proceeding, in a manner prescribed by each filing office.

[Rule 7040.] (D) *Digital Media as Evidence.*

[(A)] (1) “Electronic evidence” refers to media created, transmitted, or stored in digital format including, but not limited to, all documents, photographs, audio files, video files, text messages, and/or social media excerpts proposed to be submitted as evidence or exchanged in discovery which is transmitted in any form other than paper.

[(B)] (2) All electronic evidence to be presented in a court proceeding or submitted into the record for the York County Court of Common Pleas shall comply with the

requirements of this Rule. Any electronic evidence that does not comply with this rule will not become a part of the record of the case.

[(C)] (3) When electronic evidence is used during a court proceeding, the party submitting electronic evidence shall:

[(1)] (a) provide a device by which the electronic evidence may be viewed or played which shall have an output which is compatible with the technology in the courtroom;

[(2)] (b) be familiar with how to operate the device so that the electronic evidence can be viewed;

[(3)] (c) make the electronic evidence available for use by the opposing parties during cross-examination of the same witness for which it was originally used;

[(4)] (d) provide the clerk with the electronic evidence, as amended through trial, on its submitted storage device with data preserved in its native format that shall:

[(a)] (i) have files formatted to a file type, whenever possible, consistent with the acceptable file types periodically published by the court. When a file type is unique or proprietary, the party must provide the appropriate codex or other software to be able to open and view the file on any computer;

[(b)] (ii) have individual files with each file name consistent with how the file will be referenced on the record (e.g., “Commonwealth’s Exhibit 1”);

[(c)] (iii) be provided on a secure and protected media storage device (see [(D)] (4), below); and

[(d)] (iv) be identified with a label that shall be affixed to each storage device legibly identifying the case caption (which may be abbreviated), docket number(s), and disk number (1 of 2, etc.) if there is more than one media storage device per case. If it is impractical to affix such label directly on the media storage device, the media storage device shall be submitted in an 8 1/2” by 11” envelope which shall be labeled with all the above information.

[(D)] (4) The court only accepts the media storage device and file types as periodically published by the court on its public website. The court shall periodically seek input from the York County Bar Association regarding device and file types commonly in use by practitioners. Such storage devices shall be for the exclusive use of the courts and authorized court personnel, unless otherwise ordered.

[(E)] (5) The clerk shall retain electronic evidence for the same time frame as it would retain any other form of evidence.

[Pa.B. Doc. No. 24-335. Filed for public inspection March 15, 2024, 9:00 a.m.]