

**PART IV. COURT OF
JUDICIAL DISCIPLINE**

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The provisions of this Part IV adopted March 16, 1994, effective immediately, 24 Pa.B. 1576, unless otherwise noted.

CHAPTER 1. GENERAL PROVISIONS

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Source

The provisions of this Chapter 1 amended November 16, 1994, effective January 1, 1995, 24 Pa.B. 5835; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1677, unless otherwise noted. Immediately preceding text appears at serial pages (192873) to (192879).

IN GENERAL**Rule 101. Title and Citation of Rules.**

These rules shall be known as the Court of Judicial Discipline Rules of Procedure and may be cited as “C.J.D.R.P. No. ____.”

Adopted November 1, 1994, effective January 1, 1995.

Rule 102. Definitions.

The following words and phrases when used in these rules shall have the following meanings, unless the context or subject matter otherwise requires:

Board is the Judicial Conduct Board.

Board Complaint is the formal charging document filed by the Board to initiate proceedings in the Court pursuant to Article V, § 18(b)(5) of the Pennsylvania Constitution.

Charges are the formal charges contained in the Board Complaint filed with the Court by the Board alleging that a judicial officer has been convicted of a felony, violated Article V, § 17 of the Pennsylvania Constitution, engaged in misconduct in office, neglected or failed to perform the duties of office or engaged in conduct which prejudiced the proper administration of justice or brought the judicial office into disrepute, violated a canon of legal or judicial ethics or standards of conduct or a rule of the Supreme Court, or that the judicial officer is mentally or physically disabled.

Clerk is the person appointed by the Court to serve as Clerk of the Court.

Conference Judge is a Court member appointed by the President Judge following the filing of a Board Complaint, to preside at the pre-trial conference, to rule on the omnibus motion, and, during a panel hearing, to make evidentiary rulings. A Conference Judge may also be appointed by the President Judge to rule on petitions filed in proceedings other than those initiated by the filing of a Board Complaint.

Court is the Court of Judicial Discipline. Unless the context clearly indicates otherwise, the term shall include a panel.

Full Court is at least a quorum of the Court.

Judicial Officer includes magisterial district judges, judges of the Philadelphia Municipal and Traffic Courts, judges of the Pittsburgh Magistrates Court, judges of the courts of common pleas, the Commonwealth Court, and the Superior Court, justices of the Supreme Court and senior judges or magisterial district judges of any court.

Majority is a majority of the members of the Court qualified to vote.

Panel is a group of no fewer than three members of the Court appointed by the President Judge.

Petition for Relief is a document filed pursuant to these Rules to initiate proceedings other than formal charges in the Court.

President Judge is a member of the Court elected by the Court to act as the President Judge.

Quorum is five members of the Court.

Verification is a written statement of fact by the signer, supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification of authorities.

Source

The provisions of this Rule 102 adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994; amended November 1, 1994, effective January 1, 1995; amended January 19, 2000, effective immediately, 30 Pa.B. 619; amended December 12, 2000, effective immediately, 30 Pa.B. 6542; amended December 5, 2001, effective immediately, 31 Pa.B. 6917; amended September 6, 2006, effective immediately, 36 Pa.B. 5870. Immediately preceding text appears at serial pages (309854) and (286497).

Rule 103. Scope of Rules; Amendments; Publication.

(A) These rules shall govern the conduct of all proceedings before the Court.

(B) The rules may only be amended by the affirmative vote of a majority of the Court, after notice of the proposed amendment to the members of the Court.

(C) Upon adoption, these rules and any amendments shall be available for public inspection and shall be forwarded to:

(1) The Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and

(2) West Publishing Company for publication in the *Pennsylvania Reporter*.

Official Note: This rule is derived from former interim Rule 2.

Adopted March 16, 1994, effective March 16, 1994. Amended November 1, 1994, effective January 1, 1995.

Rule 104. Rules of Construction.

Chapter 19 of Title 1 of the *Pennsylvania Consolidated Statutes* so far as not inconsistent with any express provision of these rules, shall be applicable to the interpretation of these rules and all amendments hereto to the same extent as if these rules were enactments of the General Assembly.

Official Note: This rule is derived from former interim Rule 1(B).

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994.

Rule 105. Organization; Seal.

(A) At the first meeting of the Court, and annually thereafter, the Court shall elect from its membership a President Judge. If the President Judge is temporarily unable to perform his or her duties, these duties shall be performed by the next senior member of the Court who is able to perform these duties.

(B) The President Judge shall annually establish a calendar specifying the dates for meeting of the Court. When necessary, other dates for meetings may be set as the need arises.

(C) Hearings and trials shall be held at the seat of government unless the Court provides otherwise.

(D) The Court shall have a seal.

(1) The seal shall contain the words “Court of Judicial Discipline” on the upper circle and the word “Pennsylvania” on the lower arc circling arms similar to those appearing on the state seal.

(2) The Clerk shall be the custodian of the seal and is authorized to affix it to such documents as may be appropriate.

Official Note: This rule is derived from former interim Rule 3.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994.

Rule 106. Proceedings before the Court Generally.

(A) The President Judge, each member of the Court, the Clerk, and any person otherwise authorized by law shall have the power to administer an oath or affirmation.

(B) All testimony presented to the Court shall be taken under oath or affirmation.

(C) The Court may address unprofessional conduct and other breaches of order as permitted by law.

(D) Whenever the full Court takes action, a majority of members of the Court qualified to vote shall be required.

Official Note: This rule is derived from former interim Rule 4.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994; amended November 1, 1994, effective January 1, 1995.

Rule 107. Seniority of Judges.

(A) The seniority of the members of the Court shall be computed from the dates of the members’ appointments to the Court.

(B) Should any two members be appointed to the Court at the same time, at the first meeting of the Court after their appointment, they shall cast lots for seniority. A record of the determination shall be maintained by the Clerk.

Official Note: This rule is derived from former interim Rule 6.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994.

Rule 108. Immunity.

Members of the Court and the Court's staff shall be absolutely immune from suit for all conduct in the course of their official duties, and no civil action or disciplinary complaint predicated on testimony before the Court may be maintained against any witness or counsel.

Official Note: This rule is derived from former interim Rule 8.
Adopted March 16, 1994, effective March 16, 1994.

Rule 109. Right to Counsel.

The Judicial Officer shall be entitled to retain counsel and to have the assistance of such counsel at every stage of these proceedings.

Official Note: This rule is derived from former interim Rule 9.
Adopted March 16, 1994, effective March 16, 1994.

Rule 110. Entry of Appearance.

(A) Counsel for a Judicial Officer shall file an entry of appearance with the Clerk of the Court and shall serve a copy of the entry on the Board Counsel.

(B) The entry of appearance shall include counsel's name, address, phone number, and Pennsylvania Supreme Court Identification Number. Admission Pro Hoc Vice shall be in accordance with the Pennsylvania Bar Admission Rules.

(C) An attorney's appearance for a Judicial Officer may not be withdrawn without leave of Court unless another attorney has entered or simultaneously enters an appearance for the Judicial Officer and the change of attorneys does not delay any stage of the proceedings.

Source

The provisions of this Rule 110 adopted March 16, 1994, effective March 16, 1994; amended May 31, 1994, effective May 31, 1994; amended December 12, 2000, effective immediately, 30 Pa.B. 6542; amended July 16, 2002, effective immediately, 32 Pa.B. 3698; amended February 1, 2007, effective immediately, 37 Pa.B. 752. Immediately preceding text appears at serial page (290373).

Rule 111. Clerk of the Court.

(A) The Clerk shall be the custodian of the records and docket of the Court, which shall be preserved.

(B) The Clerk is empowered to perform those duties ordinarily performed by a clerk of a court of record and such other duties as the Court may assign.

Official Note: This rule is derived from former interim Rule 11.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994.

Rule 112. Photocopies.

Upon the request of any resident of Pennsylvania, the Administrative Office of the Court of Judicial Discipline shall provide free of charge a copy of any Opinion or Order issued by the Court. The Administrative Office will provide photocopies of any other documents listed in the official docket at a cost of \$.50 per page.

Source

The provisions of this Rule 112 adopted April 17, 1996, effective immediately, 26 Pa.B. 2097.

Rule 113. Lodging of Transcripts.

When the Court or a party direct the court reporter to transcribe the notes of testimony taken at a hearing or trial, the Clerk, upon receiving the transcript, shall notify the parties that the transcript has been lodged with the Court. The parties shall have 30 days from the date of notification to file objections to the transcript. The parties shall serve copies of objections upon the other party. The Court may conduct a hearing on the objections. If no objections or exceptions are filed, the transcript will be approved by the Court as of course.

Source

The provisions of this Rule 113 adopted May 7, 1996, effective immediately, 26 Pa.B. 2296; amended March 19, 1998, effective January 28, 1998, 28 Pa.B. 1632. Immediately preceding text appears at serial page (214704).

DOCUMENTS GENERALLY**Rule 121. Filing; Docketing.**

- (A) Papers required or permitted to be filed with the Court shall be filed:
- (1) with the Clerk; or
 - (2) by mail addressed to the Clerk, but filing by mail shall be timely only when received by the Clerk within the time fixed for filing.
- (B) Whenever these rules require service, the filing shall include a verification that the service requirements have been met.
- (C) Unless otherwise ordered by the Court, or as otherwise provided by these rules, a filing shall consist of the original and three (3) copies, except, in the case of pleadings in excess of 20 pages, in which case an original and 10 copies are required.
- (D) The Clerk shall stamp all documents filed with the Court to reflect the date and time of filing and shall record such information in the docket.
- (E) The Clerk shall distribute copies of all filings as the Court shall direct.

Official Note: This rule is derived from former interim Rule 12.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994; amended November 1, 1994, effective January 1, 1995; amended September 9, 2008, effective immediately, 38 Pa.B. 5163. Immediately preceding text appears at serial pages (326018) and (290375).

Rule 122. Service.

(A) When service is required under these rules, service shall be made concurrently with filing.

(B) Original process shall be served by a competent adult:

- (1) by handing a copy to the Judicial Officer; or
- (2) by handing a copy

(i) at the residence of the Judicial Officer to an adult member of the family with whom he resides; but if no adult member of the family is found, then to an adult person in charge of such residence;

(ii) at any office or usual place of business of the Judicial Officer to his agent or to the person for the time being in charge thereof.

(C) (i) If service of the original process cannot be made as in (B) above, then a copy of the process shall be mailed to the Judicial Officer by any form of mail requiring a receipt signed by the Judicial Officer or his authorized agent. Service is complete upon delivery of the mail.

(ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the Judicial Officer's last known address. Service in this manner shall be complete upon mailing.

(D) In lieu of service of the original process under this rule, the Judicial Officer or his authorized agent may accept service of the process by filing a separate document which shall be substantially in the following form:

(CAPTION)

I accept service of the _____ (on behalf of _____ and represent that I am authorized to do so).

(Date)

(Judicial Officer or Authorized Agent)

(Mailing Address)

(E) Copies of all legal papers other than the original process filed in a proceeding in this Court or served upon any party to the proceeding shall be served upon every other party to the proceeding.

(F) Service of all legal papers other than the original process shall be made:

(1) by handing or mailing a copy to or leaving a copy for each party at the address of the party's attorney of record endorsed on an appearance or prior pleading of the party, or at such other address as a party may agree, or

(2)(i) if there is no attorney of record, by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of a party;

- (ii) if such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.
- (iii) Service by mail is complete upon mailing.

Source

The provisions of this Rule 122 adopted March 16, 1994, effective March 16, 1994; amended July 16, 2002, effective immediately, 32 Pa.B. 3698. Immediately preceding text appears at serial page (272371).

Rule 123. Return of Service.

(A) When service of original process has been made, the person making service shall make a return of service forthwith. If service has not been made, a return of no service shall be made.

(B) A return of service shall set forth the date, time, place and manner of service, the identity of the person served and any other facts necessary for the Court to determine whether proper service has been made.

(C) Return of service or no service by mail under Rule 122 (C)(i) shall include a return receipt.

(D) The return of service or no service shall be filed with the Clerk.

Source

The provisions of this Rule 123 adopted November 1, 1994, effective January 1, 1995; amended July 16, 2002, effective immediately, 32 Pa.B. 3698. Immediately preceding text appears at serial page (272371).

Rule 124. Subpoenas.

(A) The Court may compel by subpoena the attendance of witnesses and the production of books, papers, documents, and other physical evidence at a deposition, hearing or trial held pursuant to these rules.

(B) Upon the request of a party, the Clerk shall issue a subpoena under the seal of the Court, signed by the Clerk but otherwise blank, substantially in the form prescribed by Pa.R.C.P. No. 234.6 or Pa.R.C.P. No. 234.8.

(C) Subpoenas shall be served as provided in Rule 122.

(D) If a witness fails to comply with a subpoena, the court may issue a bench warrant and if the failure to comply is willful may adjudge the witness to be in contempt.

Official Note: This rule is derived from former interim Rule 14.

Adopted March 16, 1994, effective March 16, 1994. Amended May 31, 1994, effective May 31, 1994; amended November 1, 1994, effective January 1, 1995.

Rule 125. Designation of Officials for Execution of Bench Warrants of Arrest.

By order in a particular case, the Court may designate the Pennsylvania State Police or the Sheriff of Dauphin County as the official agency for the execution of a bench warrant of arrest. The Sheriff of Dauphin County may act either directly, within Dauphin County, or by deputizing sheriffs of other counties.

Adopted November 1, 1994, effective January 1, 1995.

Rule 126. Continuances.

A request for a continuance shall be made by filing an original motion and one copy with the Clerk, and serving a copy of the motion on the opposing party. The opposing party shall file its answer to the motion within 10 days of service of the motion. The motion shall be decided by the Conference Judge, who may grant the motion, but only for exceptional cause shown.

Source

The provisions of of this Rule 126 adopted March 16, 1994, effective March 16, 1994; amended November 1, 1994, effective January 1, 1995; amended October 16, 2002, effective immediately, 32 Pa.B. 5402. Immediately preceding text appears at serial page (290377).

Rule 127. Other Motions.

Other motions not specifically governed by a Rule of this Court shall be served in accordance with Rule 122(E) and (F). The opposing party shall file its answer to the motion within 10 days of service of the motion.

Source

The provisions of this Rule 127 adopted October 16, 2002, effective immediately, 32 Pa.B. 5402.

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