

REQUESTS FOR OTHER RELIEF

401. Initial Procedure.
402—405. [Reserved].

Source

The provisions of this Chapter 21 adopted February 20, 1998, effective February 20, 1998, 28 Pa.B. 1388; amended December 9, 1998, effective December 9, 1998, 28 Pa.B. 6290; amended August 2, 2006, effective immediately, 36 Pa.B. 4597, unless otherwise noted. Immediately preceding text appears at serial pages (286505) to (286506), (254201) to (254202), (317851) to (317853), (254205) to (254206) and (286507).

GENERAL PROVISIONS**§ 101. Classification of Judges.**

(A) Judges who are serving a term of office which has not expired shall be classified as Active Members or Judges. Those Judges whose terms have expired, but who must continue to participate in a hearing in accordance with Article V, § 18(b)(2), shall be classified as Participating Former Members or Judges.

(B) The phrase “any hearing in progress” as used in Article V, § 18(b)(2) refers to a trial on the merits (not a pretrial matter) in which the Court has heard testimony from at least the first witness.

(C) The requirement that a judge continue to participate in “any hearing in progress” as used in Article V, (b)(2) does not apply to any matter on remand from the Pennsylvania Supreme Court. In the event of a remand, the then Active Members or Judges shall preside over the matter.

Source

The provisions of this § 101 amended August 3, 2016, effective March 29, 2016, 46 Pa.B. 4951. Immediately preceding text appears at serial page (321786).

§ 102. Composition of Court or Panel.

(A) En banc or full Court proceedings shall be conducted by the entire Court. The President Judge shall preside unless he or she is unavailable to participate, in which case, the empanelled Judge most senior shall preside.

(B) Panels appointed to conduct a trial pursuant to C.J.D.R.P. No. 501 shall be composed of no fewer than three Judges of the Court, one of whom shall be the Conference Judge.

Source

The provisions of this § 102 amended August 3, 2016, effective March 29, 2016, 46 Pa.B. 4951. Immediately preceding text appears at serial page (321786).

§ 103. Findings of Panel.

When the trial of a case is conducted by a Panel appointed pursuant to C.J.D.R.P. No. 501, findings of fact made by the Panel shall be accepted by the full Court so long as sufficient evidence exists in the record which is adequate to support the findings of the Panel. Thus will proper dererence be paid to the fact-

finders who heard the witnesses testify and were in the sole position to observe their demeanor and assess their credibility.

Source

The provisions of this § 103 adopted August 2, 2006, effective immediately, 36 Pa.B. 4597.

§ 104. Location of Proceedings.

Proceedings before the Court shall be in Harrisburg, unless the Court selects another location for a proceeding.

§ 105. Duty Month Judges.

Each month an Active Judge of the Court shall be designated the duty Judge for the month. Assignment as duty Judge shall be based upon reverse seniority. A new assignment schedule shall be developed by the Court Administrator each year, following the appointment of new members, and shall be approved by the Court. The schedule shall reflect any previous service of members by ensuring that assignments are made in an equitable fashion.

§ 106. Conducting Conferences by Telephone.

When a particular proceeding does not entail the creation of a record or public access, the Court or a Judge conducting a conference, may elect to proceed by teleconference.

§ 107. Opinions and Orders of Court.

(A) Opinions.

(1) *Assignment.* The President Judge, or the Presiding Judge, shall assign to the Conference Judge the duty to draft a majority opinion, unless, following preliminary deliberations by the Judges, the Conference Judge does not agree with the majority of Judges with regard to disposition of the matter. In such case, the President Judge, or the Presiding Judge, shall assign one of the Judges in the majority to draft the majority opinion.

(2) *Circulation.* When the Judge to whom a matter has been assigned for opinion writing has prepared an opinion, the Judge shall direct the Court Administrator to forward the draft opinion to the other Judges participating in the decision-making process. The draft shall bear a cover sheet that shall include a standardized form requesting the responding Judges to inform the Court Administrator of their agreement or disagreement with the opinion as well as any suggestions they desire to make with regard to the draft opinion. The form shall provide a choice for response as follows: Join, Concur in Result, Will Write a Concurring Opinion, Dissent, Will Write a Dissenting Opinion.

(3) *Responding.* Judges shall respond to a circulating opinion within 14 days, unless the responding Judge requests and obtains from the authoring Judge an extension of time to respond.

(4) *Concurrences and Dissents.*

(a) When a Judge responds to a circulating opinion by stating he or she concurs or dissents and intends to write a concurring or dissenting opinion, the Court Administrator shall hold the draft majority opinion until all Judges have responded to the concurring or dissenting opinion.

(b) The concurring or dissenting Judge shall submit a draft concurring or dissenting opinion to the Court Administrator for circulation to all Judges within 14 days from the date of the concurring or dissenting Judge's response.

(c) The concurring or dissenting opinion shall bear a cover sheet with a standardized form for response, including the following options: (1) "Concurring/Dissenting Opinion Noted," which shall indicate that the responding Judge does not alter any previously submitted votes, and (2) "I join in the Concurring/Dissenting Opinion." Judges shall respond to concurring or dissenting opinions within 14 days of circulation, unless the responding Judge requests and obtains from the author of the draft majority opinion an extension of time to respond.

(d) The author of the draft majority opinion may consider the reasoning of the concurring or dissenting opinion, as well as suggestions offered by any other Judge, and revise his or her draft for recirculation.

(e) Any recirculation shall boldly note on the cover sheet the date of circulation, and a reasonable time period for response shall also be noted. However, if an authoring Judge, whether it be the majority, concurrence or dissent, deems that the alterations are not substantive, no cover sheet shall be required, but the author shall attach a memorandum indicating the nature of the changes and that no further response is required. In all cases, an authoring Judge shall advise all Judges that a draft has been revised.

(5) *Reassignment.* When draft opinions have been circulated and a majority of Judges either (1) dissent to the draft majority opinion or (2) vote in accordance with a concurring or dissenting opinion, the author of the original draft majority opinion shall request the President Judge, or Presiding Judge to reassign the matter to a Judge whose vote is in the majority or to the author of the draft opinion that has garnered a majority of votes, who shall submit his or her draft to the Court Administrator as the new majority opinion, to be circulated in accordance with these provisions.

(6) *Revisions of Opinions after Filing.* When, after the filing of an opinion, whether the opinion is a majority or concurring or dissenting opinion, the authoring Judge determines that a change to the opinion is warranted, the authoring Judge shall circulate a proposed order to the members who participated in the decision-making process which shall:

(a) in the case of revisions that alter a significant portion of the filed opinion, with the concurrence of the members who joined in the original

opinion, indicate that the original opinion has been revoked and withdrawn, and replaced with a new opinion, or

(b) in the case of revisions that are not substantial in nature, indicate the alterations made to the original. When this alternative is used, the revisions shall be incorporated into the original and the Court Administrator shall ensure that the new revised opinion thereafter shall be distributed to whom-ever the original had been distributed.

(7) *Notations of concurring or dissenting Judges.* Whenever a Judge concurs in the result of a majority opinion or dissents to the majority opinion, said notation shall be indicated at the bottom of the last page of the majority opinion in the following exemplary style: Judge Smith dissents/concurs in the result; Judge Smith files a dissenting/concurring opinion. The accompanying concurring or dissenting opinion shall begin in the following exemplary style: Judge Smith dissenting/concurring.

(8) *Panel Decisions.*

(a) The assignment and circulation of draft opinions of panels shall follow the procedure applicable to decisions of the full Court.

(b) After the majority or concurring or dissenting opinions of the Panel are in final form, they shall be circulated to the full Court in accordance with these provisions.

(B) *Orders.*

(1) *Applicability.* This provision shall govern this issuance of all orders of the Court except those issued by Conferences Judges in the exercise of the duties with which they are empowered.

(2) When the Court determines that the issuance of an order regarding a pending matter is warranted, and when the matter requires a majority vote of the full Court, the President Judge, or the Presiding Judge, shall cause to be distributed for vote by the Court a proposed per curiam order.

(3) *Circulation of Proposed Per Curiam Orders.* The President Judge, or the Presiding Judge, shall direct the Court Administrator to provide a response sheet with each proposed per curiam order upon which each Judge shall respond as to whether or not he or she is in agreement with the proposed order. The response sheet shall indicate the date by which a response is directed to be forwarded. Responses shall be returned to the Court Administrator, who shall keep the President Judge, or the Presiding Judge informed as to the status of votes.

(4) Whenever a Judge concurs with or dissents from an order that is not accompanied by an opinion, his or her concurrence or dissent shall be noted on the order. In such case, no concurring or dissenting opinion may be included.

(5) When a Judge concurs with or dissents from an order that is accompanied by an opinion, his or her concurrence or dissent shall be noted on the opinion as directed by subsection A(7) of this I.O.P. and shall not be noted on the order.

§ 108. Judicial Conferences.

The Court shall convene regularly to address the business of the Court. The President Judge shall preside over conferences. The Court Administrator shall develop an agenda for judicial conferences in consultation with the President Judge, who shall approve the agenda. The Court Administrator shall distribute copies of the agenda and any related materials to all Judges before the date of the judicial conference.

§ 109. Adoption of Rules of Procedure.

When the Court determines that it should adopt or amend any rule of procedure, Counsel shall draft a proposed rule for consideration by the full Court. When the Court determines that the rule satisfies the purpose or need for the adoption or amendment, it shall vote upon the new or amended rule. When approved by a majority of the Court, the Court Administrator shall forward a copy of the rule to the Legislative Reference Bureau for initial publication in the *Pennsylvania Bulletin*, seeking responses in the form of criticisms or suggestions from the public. If suggestions or criticisms are received during the 30-day response period, the Court shall consider those suggestions and criticisms before final adoption of the rule, and, if a majority believes that the suggestions or criticisms should be reflected in the rule, the approval procedure described above shall be repeated and the full Court must approve the new draft for republication in the *Pennsylvania Bulletin* and response as set forth above. If the Court rejects the suggestions and criticisms, or if the Court receives no suggestions or criticisms, the Court Administrator shall submit the rule for final publication and adoption in the *Pennsylvania Bulletin*. All proposed and final rule adoptions and changes sent to the Legislative Reference Bureau shall be accompanied by a Per Curiam Order stating whether the publication is for public response or a final rule adoption. The Court may forego the above procedures herein described if it determines that exigent circumstances warrant the immediate adoption or amendment of a rule.

§ 110. Confidentiality.

(A) The amendments of 1993 to Article V, § 18 of the Pennsylvania Constitution establishing this Court provide that this Court shall be a court of record, that formal charges filed with the Court shall be a matter of public record, and that all hearings conducted by the Court shall be public proceedings. Accordingly, all documents filed of record with this Court pursuant to our Rules of Procedure shall be available for public inspection upon reasonable notice to the Clerk of the Court. Copies of documents shall be provided in accordance with C.J.D.R.P. No. 112.

All other documents, such as, for example, internal memoranda, are confidential. Members have the responsibility to safeguard the confidentiality of such

documents. This responsibility shall continue after a member completes his term or leaves the Court for any reason.

(B) All members of the Court, staff employees and any contractual employees shall at all times maintain strict confidentiality concerning proceedings before the Court, and shall refrain from discussing with persons not a member or employee of the Court the substance of deliberations concerning any matter. This provision applies to all matters involving the deliberative process regardless of whether the matter still is pending or has already been decided.

Source

The provisions of this § 109 amended February 28, 2006, effective immediately, 36 Pa.B. 1213. Immediately preceding text appears at serial page (262124).

§ 111. Recusal.

Recusal is an official means by which a member may disqualify himself or herself from participating in a pending matter. In this regard members shall be guided by Rule 5(C) of the Rules Governing the Conduct of Members of the Court of Judicial Discipline, pertaining to disqualification. When a member determines that he or she must recuse themselves from participation in a pending matter, they shall submit to the Court Administrator a memo indicating that they have recused themselves from participating in the pending matter. Such memo is necessary even if the member has officially recused himself or herself during the course of a Court proceeding. The memo need not specify the reasons for recusal.

Source

The provisions of this § 110 adopted December 6, 1999, effective immediately, 29 Pa.B. 6324.

FORMAL COMPLAINTS

§ 201. Assignment of Conference Judge.

When the Judicial Conduct Board files a Formal Complaint with the Court, the Court Administrator shall immediately notify the President Judge that a Formal Complaint has been filed. The President Judge shall appoint a Conference Judge or Judges in accordance with C.J.D.R.P. No. 301(D). The President Judge, at his or her discretion, may appoint two other members to serve as Co-conference Judges. In such a case, the Conference Judge and Co-conference Judges shall serve as a panel in the performance of all duties to be performed by a Conference Judge under this Court's Rules of Procedure and these Internal Operating Procedures.

Source

The provisions of this § 201 amended April 23, 2001, effective immediately, 31 Pa.B. 2364. Immediately preceding text appears at serial page (262125).

§ 202. Distribution of Formal Complaints and Filings Related to Formal Complaints.

When the Judicial Conduct Board files a Formal Complaint, the Court Administrator shall forward copies of the Complaint to all Active Judges of the Court. The Court Administrator shall forward copies of all pleadings and filings related to a Formal Complaint to all Active Judges. When a former member of the Court must participate in a pending matter by virtue of Article V, § 18(b)(2), the Court Administrator shall forward copies of pleadings and filings relating to the pending matter to such Participating Former Members.

§ 203. Orders and Decisions of Conference Judge.

When a Conference Judge issues an order or decision regarding a preliminary matter which the Conference Judge has the power to decide in accordance with C.J.D.R.P. Nos. 301 and 421, the Court Administrator shall circulate copies of said orders and decisions to all Active Judges, and, if applicable under I.O.P. No. 101, shall circulate said copies to Participating Former Members of the Court.

§ 204. Deferral of Disposition of Omnibus Motion by Conference Judge to the Full Court.

When, under the authority of C.J.D.R.P. No. 414(A), a Conference Judge determines that the full Court should dispose of an issue or issues raised in an Omnibus Motion, or, when, upon consideration of an Omnibus Motion, a Conference Judge proposes to dismiss a charge or terminate the case, under C.J.D.R.P. No. 414(C), he or she shall submit a memorandum to the President Judge summarizing the issues to be decided. The President Judge shall set a date for determination of the issues by the full Court and may schedule a date for hearing or argument if either is necessary.

§ 205. Certification by Conference Judge That Case is Ready for Trial.

Following the filing of Stipulations of Fact in Lieu of Trial under C.J.D.R.P. No. 502(D), or following pre-trial conference, and when the Conference Judge believes that a case is ready for trial, the Conference Judge shall certify to the President Judge that a case is ready for disposition. When the Conference Judge has certified a case as ready for disposition or trial, the President Judge shall set a date for trial or deliberation on the stipulations, as required.

§ 206. Deliberation Following Trial.

Unless otherwise decided by the Court, the Court shall convene immediately following the conclusion of trial in order to develop a general consensus as to matters necessary for adjudication.

§ 207. Assignment to Judge.

When the Court reaches a general dispositive conclusion as to issues raised in a trial, the President Judge shall assign the matter to the Conference Judge to develop a draft decision, unless the Conference Judge is not in agreement with the majority vote, in which case, the President Judge shall assign the matter to a Judge whose conclusions are in accord with the majority.

§ 208. Disposition of Objections to Findings of Fact and Conclusions of Law.

Upon receipt of objections to the Court's Findings of Fact and Conclusions of Law, the Court Administrator shall forward such objections to the members of the Court. The President Judge shall obtain responses of the members to the objections as to whether the objections have or lack merit and whether the filing of briefs and/or oral argument is warranted. When a majority of the Court concludes that no briefs or argument is warranted, the President Judge shall cause to be issued an Order disposing of the objections. If a majority of the Court concludes that the filing of briefs and/or oral argument is warranted, the President Judge shall set a date for the filing of briefs and/or oral argument and thereafter cause to be drafted an order affirming the Court's Findings and Conclusions or addressing the revisions warranted by a majority of the Court, as the case may be.

Source

The provisions of this § 208 amended January 26, 1999, effective immediately, 29 Pa.B. 645. Immediately preceding text appears at serial page (252141).

SANCTION PHASE OF PROCEEDINGS**§ 301. Scheduling Sanction Hearings.**

When the Court has issued Findings of Fact and Conclusions of Law which have become final under C.J.D.R.P. No. 503(C), and when such Conclusions of Law authorize the Court to impose a sanction upon a judicial officer, the Court shall schedule a hearing on the sanction to be imposed. Orders scheduling sanction hearings shall direct the judicial respondent and the Judicial Conduct Board to submit a list of witnesses they propose to call at the hearing.

§ 302. Sanction Hearings.

The President Judge shall preside at sanction hearings unless he or she is unavailable to participate. The Board shall proceed first with the presentation of testimony, if it elects to present such testimony. The respondent shall follow with the presentation of testimony if he or she elects to present such testimony.

§ 303. Deliberation Following Sanction Hearing.

The Court shall convene following sanction hearings in order to determine the sanction to be imposed upon a judicial officer. A majority of participating Judges must agree upon a particular sanction in order for a sanction to be imposed.

§ 304. Formal Sanction Order.

The Court may enter an order of sanction or discipline in open Court following deliberation, or it may defer the entry of its decision regarding sanctions for written disposition. However, in either case, the Court must reduce its sanction order to written form in accordance with C.J.D.R.P. No. 504(B).

REQUESTS FOR OTHER RELIEF**§ 401. Initial Procedure.**

When the Judicial Conduct Board files a Petition for Relief under C.J.D.R.P. No. 701, the Court Administrator shall inform the President Judge of the filing, and at his or her request shall immediately mail or fax a copy of the filing to the President Judge. If, upon review of the Petition, the President Judge deems that the matter should be expedited, he or she may convene the Court in person or by teleconference to determine whether the judicial officer must respond before the normal 14-day response period provided under C.J.D.R.P. No. 703. If the Court concludes that an expedited answer is warranted, the Court shall so notify the respondent by Order.

§§ 402—405. [Reserved].**Source**

The provisions of these §§ 402—405 reserved December 5, 2001, effective immediately, 31 Pa.B. 6918. Immediately preceding text appears at serial pages (254207) to (254208).

[Next page is 1-1.]