

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART V. JUDICIAL ETHICS ADVISORY BOARD

[ 207 PA. CODE CH. 3 ]

#### Adoption of the Regulations of the Pennsylvania Judicial Ethics Advisory Board; No. 572 Judicial Administration Docket

##### Order

*Per Curiam*

And Now, this 30th day of June, 2022, it is *Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania and Pa.R.J.E.A.B. 104(d)(3), that the Regulations for the Pennsylvania Judicial Ethics Advisory Board are adopted in the attached form on a temporary basis, pending further review by the Court.

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

##### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART V. JUDICIAL ETHICS ADVISORY BOARD

#### CHAPTER 3. REGULATIONS OF THE JUDICIAL ETHICS ADVISORY BOARD

(*Editor's Note:* The following chapter is new and is printed in regular type to enhance readability.)

##### Rule

- 1.0. Preamble.
- 2.0. Definitions.
- 3.0. Board Membership.
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##### 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, the Judicial Ethics Advisory Board (JEAB) is the designated and approved body to render advice and opinions 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").<sup>1</sup>

###### 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

<sup>1</sup> The JEAB 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.

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.

##### 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.

"*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 by the Board from time to time.

"*Rules*"—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*"—Employees of the JEAB, including any full-time, part-time, contract and/or designated agents of the JEAB, either current or future.

### 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.

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.

#### 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.

#### 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. 105 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.

### 4.0. Board Meetings.

#### 4.1. Board Calendar.

For reporting purposes, the Board shall operate on a fiscal year beginning July 1st and ending June 30th.

#### 4.2. Meeting Dates.

The Board shall meet at least quarterly. At or prior to the last meeting of the Board for the fiscal year, the Board 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 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.

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.

### 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. 105, 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. 204(b) and (c), 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.

#### 6.0. **JEAB 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, 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, 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, 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 or to the Supreme Court's Press and Communications Office at 717-231-3324.

#### 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
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



<i>Category</i>	<i>Time Measured From:</i>	<i>Mandatory Retention Period</i>
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.

**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. 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 receives a jurisdictionally appropriate Request but lacks sufficient information to render Advice, Staff will obtain additional facts from the Judicial Officer.

Staff may close the Request if the 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, 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 Members and Staff of the JEAB. Individual Panel assignments shall rotate on a quarterly basis.

**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 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. Advice.**

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

**8.9. Reconsideration of Advice.**

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

**8.9.1. Timing.**

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

**8.10. 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 any agreement, disagreement, or comment to Staff, and sending a copy thereof 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 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.

#### 8.11. *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.

#### 8.12. *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 shall be part of the issued Advice or Opinion. A dissent shall not identify the Member-author by name.

#### 8.13. *Reconsideration.*

8.13.1. Under Pa.R.J.E.A.B. Rule 207, 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-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.

### 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.

### 10.0. **Docketing/Numbering.**

#### 10.1. *Request Number.*

Regardless of format (paper correspondence, email, fax, etc.), the JEAB will assign every written Request a sequential Request Number as required by Pa.R.J.E.A.B 202. 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).

### 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.

### 12.0. **Exigent Circumstances.**

Under Pa.R.J.E.A.B. 201, 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, 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 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, 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.

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.

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.

15.0. **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.

15.1. *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.

15.2. *Pending Amendments.*

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

[Pa.B. Doc. No. 22-1037. Filed for public inspection July 15, 2022, 9:00 a.m.]

**Title 207—JUDICIAL CONDUCT**

**PART II. CONDUCT STANDARDS**

[ 207 PA. CODE CH. 33 ]

**Amendment of the Preamble of the Code of Judicial Conduct; No. 574 Judicial Administration Docket**

**Order**

*Per Curiam*

And Now, this 30th day of June, 2022, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, *It Is Ordered* that:

Section (8) of the Preamble to the Code of Judicial Conduct is amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2022. Additions are shown in bold and are underlined.

Deletions are shown in bold and in brackets.

**Annex A**

**TITLE 207. JUDICIAL CONDUCT**

**PART II. CONDUCT STANDARDS**

**CHAPTER 33. CODE OF JUDICIAL CONDUCT**

**Subchapter A. CANONS**

**Preamble**

\* \* \* \* \*

(8) The [ **Ethics Committee of the Pennsylvania Conference of State Trial Judges** ] **Pennsylvania Judicial Ethics Advisory Board** is designated as the approved body to render advisory opinions **and general guidance** regarding ethical concerns involving judges, other judicial officers and judicial candidates subject to the Code of Judicial Conduct. [ **Although such opinions are not, per se, binding upon the Judicial Conduct Board, the Court of Judicial Discipline or the Supreme Court of Pennsylvania, a** ] **Action** taken in reliance thereon and pursuant thereto shall be [ **taken into account** ] **treated as set forth in Rules 103 and 206 of the Rules of the Pennsylvania Judicial Ethics Advisory Board** in determining whether discipline should be recommended or imposed.

\* \* \* \* \*

[Pa.B. Doc. No. 22-1038. Filed for public inspection July 15, 2022, 9:00 a.m.]

**Title 207—JUDICIAL CONDUCT**

**PART II. CONDUCT STANDARDS**

[ 207 PA. CODE CH. 51 ]

**Amendment of the Preamble to the Rules Governing Standards of Conduct of Magisterial District Judges; No. 573 Judicial Administration Docket**

**Order**

*Per Curiam*

And Now, this 30th day of June, 2022, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, *It Is Ordered* that:



Section (8) of the Preamble to the Rules Governing Standards of Conduct of Magisterial District Judges is amended in the attached form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2022. 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 II. CONDUCT STANDARDS

#### CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

#### PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

#### Rules Governing Standards of Conduct of Magisterial District Judges 2014

#### Preamble

\* \* \* \* \*

(8) The [ **Ethics Committee of the Pennsylvania Conference of State Trial Judges and the Ethics and Professionalism Committee of the Special Court Judges Association of Pennsylvania are** ] **Pennsylvania Judicial Ethics Advisory Board** is designated as the approved [ **bodies** ] **body** to render advisory opinions **and general guidance** regarding ethical concerns involving magisterial district judges and judicial candidates subject to the Conduct Rules. [ **Although such opinions are not, per se, binding upon the Judicial Conduct Board, the Court of Judicial Discipline or the Supreme Court of Pennsylvania, a** ] Action taken in reliance thereon and pursuant thereto shall be [ **taken into account** ] **treated as set forth in Rules 103 and 206 of the Pennsylvania Judicial Ethics Advisory Board** in determining whether discipline should be recommended or imposed. [ **It is anticipated that ethical concerns directed to the Ethics Committee of the Pennsylvania Conference of State Trial Judges would be limited to matters more appropriately before that body, e.g., campaigning for election to the court of common pleas or an appellate court.** ]

\* \* \* \* \*

[Pa.B. Doc. No. 22-1039. Filed for public inspection July 15, 2022, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Adoption of Philadelphia Rules of Judicial Administration \*122, \*122-11 and \*122-12; President Judge General Court Regulation; No. 11 of 2022

#### Order

And Now, this 28th day of June, 2022, the proposed Philadelphia Rules of Judicial Administration \*122, \*122-11, and \*122-12, as follows to this Order, and, as required by Pa.R.J.A. 103, the Supreme Court Criminal

Procedural Rules Committee has reviewed the following local rule, has determined that Rules \*122, \*122-11, and \*122-12 are not inconsistent with applicable statewide rules, and has authorized its promulgation.

Now, therefore, it is hereby *Ordered* and *Decreed* that Philadelphia Rules of Judicial Administration \*122, \*122-11, and \*122-12 are adopted, as follows, effective thirty days from this date and after publication in the *Pennsylvania Bulletin*.

As required by Pa.R.J.A. 103(d), the local rule which follows this Order was submitted to the Supreme Court of Pennsylvania Criminal Procedural Rules Committee for review, and written notification has been received from the Rules Committee certifying that the local rule is not inconsistent with any general rule of the Supreme Court. This Order and the following local rule shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the following local rule, as well as one copy of the Administrative Order and local rule shall be distributed to the Legislative Reference Bureau on a computer diskette for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and local rule shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.courts.phila.gov>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and local rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE IDEE C. FOX,  
President Judge  
Court of Common Pleas

#### Rule \*122. Appointment of Counsel in the First Judicial District of Pennsylvania.

(A) Counsel must be provided for eligible persons who are without financial resources, persons who are otherwise unable to employ counsel when there is a likelihood that imprisonment will be imposed, or when the interests of justice require it. The Defender Association of Philadelphia ("Defender Association") is contracted by the City of Philadelphia to represent individuals who, in each county other than Philadelphia County, are represented by the Public Defender. See the Public Defender Act, Act of December 2, 1968, P.L. 1144, No. 358, 16 P.S. § 9960.1 et seq., 16 P.S. § 9960.6. In Philadelphia County, when the Defender Association is unable to represent persons eligible for court-appointed counsel, an appointment is made by the Court as provided in these rules.

(B) At the preliminary arraignment, the Defender Association shall represent all persons charged with a criminal offense who are not represented by privately retained counsel. At the conclusion of the preliminary arraignment, the Arraignment Court Magistrate or issuing authority shall appoint the Defender Association to continue to represent eligible persons. In cases involving multiple persons eligible for court-appointed counsel, the Defender Association may only be appointed to represent one person and shall be appointed to represent the first

eligible person. The Arraignment Court Magistrate or issuing authority shall thereafter order the appointment of counsel for the remaining person(s) eligible for court-appointed counsel. Only those attorneys who have been designated as qualified, as provided in Phila.R.J.A. No. \*122-1, and whose names are on the applicable Lists of Qualified Attorneys are eligible to be appointed by the Court.

(C) Upon receipt of an appointment order, the court-appointed counsel must notify the court as soon as practicable if a conflict prevents the attorney from representing the person eligible for court-appointed counsel. When notification of a conflict is given before any services are rendered by the court-appointed counsel, the appointment order will be administratively vacated, another eligible attorney will be appointed, and the initial court-appointed counsel will be eligible to receive a substitute appointment. When a conflict is discovered or arises after a court-appointed counsel has provided any services on behalf of the person eligible for court-appointed counsel, the court-appointed counsel may only be permitted to withdraw as provided in Pa.R.Crim.P. 120(B), Pa.R.J.C.P. 150(C), Pa.R.J.C.P. 1150(C), or other applicable rule or legal authority.

(D) All court-appointed counsel must maintain a principal office in Philadelphia County to be eligible to receive court appointments. To be considered, the attorney must complete an Application for Court-Appointment Certification, must meet the required standards, and must be selected as provided in Phila.R.J.A. No. \*122-1 et seq. Upon being added to the court-appointment list, and as may be required by the court from time to time, the attorney must attend a Philadelphia Bar Association or court-sponsored CLE which provides training on the court-appointment process and billing procedures. Attorneys who are currently on any of the Lists of Qualified Attorneys who wish to continue to be eligible to receive court-appointments after the effective date of this Rule must obtain and maintain Professional Liability Insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year. Counsel appointed after the effective date of this Rule must certify, upon filing the required Payment Order/Voucher, that they maintain Professional Liability Insurance as required by this Rule.

**Rule \*122-11. Payment Authorization Process for First Judicial District of Pennsylvania Court-Appointed Counsel.**

*(A) General Provisions.*

(1) An appointment order will be issued appointing counsel to represent persons eligible for court-appointed counsel. The court-appointed counsel must appear in all court proceedings to represent the client. However, in the event the court-appointed counsel is unavailable for a dispositive hearing, in lieu of continuing the matter, the court-appointed counsel may make arrangements for a well-informed alternate counsel to appear to represent the client provided that the client is notified before the proceedings and does not object.

(2) When counsel is appointed by the Judge at the bar of the court, an order shall be issued and sent to the Court's Quality Assurance Unit ("QAU"). QAU will determine if counsel is on the List of Qualified Attorneys. If counsel is on the List, the QAU shall process the appointment. If counsel is not on the List, then QAU will contact the judge, who can direct appointment of another attorney or can request the QAU assign the matter to court-appointed counsel already on the List of Qualified Attorneys.

(3) When a person eligible for court-appointed counsel is charged with multiple offenses arising from the same incident or from the same act or transaction, one order of appointment will be issued appointing one attorney to represent the person, and the court-appointed counsel will be compensated in accordance with the fee provision of the highest graded offense.

*Note:* See Pa.R.Crim.P. Nos. 453(B) and 505(B).

(4) When offenses charged separately are joined for a hearing or trial as provided in Pa.R.Crim.P. 582 and 701, the court-appointed counsel shall be compensated for each case the attorney had been appointed by the Court to represent the person unless the trial judge, at the conclusion of the case, determines otherwise.

(5) When multiple offenses are severed for hearing or trial as provided in Pa.R.Crim.P. 583, the assigned judicial authority shall issue an order. Court-appointed counsel must notify the QAU as soon as practicable so additional appointment order(s) can be generated. Court-appointed counsel will be compensated for each severed case.

(6) The court-appointed counsel must file a motion seeking approval to obtain investigative, expert or other services necessary for an adequate defense in accordance with Rule \*122-12(E). After determination that such services are necessary, the Court may set forth the maximum amount that may be expended as a fixed amount or on an hourly basis. When more than one investigator and/or expert has been retained during the pendency of a case, the judge shall determine the appropriate fee to be paid for each investigator and/or expert.

(7) All requests for compensation and payment of allowed expenses must be made by the court-appointed counsel utilizing the applicable Payment Voucher/Order as provided in this Rule. Any requests for compensation filed directly by investigators, expert witnesses or otherwise, will be rejected or denied.

(8) When requesting payment for court-appointment services and compensation for court approved experts, investigators and expenses, the court-appointed counsel shall utilize the Payment Voucher/Order applicable as of the date of counsel's appointment as identified on the appointment order. If the wrong Payment Voucher/Order is used, it may be rejected or denied by the court without prejudice to resubmit utilizing the appropriate Payment Voucher/Order. Counsel shall attach receipts for all expenses for which reimbursement is sought. Counsel will not be reimbursed for ordinary and reasonable business expenses, such as postage, copies, secretarial services, and legal research subscription services or resources. Expenses related to travel for purposes of interviewing the person eligible for court-appointed counsel or witnesses, provided that the required travel exceeds 50 miles from the City of Philadelphia, will be authorized at the IRS approved mileage rate in effect at the time of travel. Moreover, all airfare expenses and travel expense exceeding \$100 must be authorized in advance by the Court.

(9) A Payment Voucher/Order form must be used for fixed fee cases and for hourly fee cases, including appellate and PCRA cases. A Chronological List of Services Rendered must be attached as required by Rule \*122-12 for Payment Voucher/Orders on appellate and PCRA cases as well as for investigator, expert or other services. All requests for reimbursement of expenses must be accompanied by a receipt. Payment for fixed-fee cases will be made upon conclusion of the payable event.



(10) All Payment Vouchers/Orders must be submitted together with the appointment order, a Chronological List of Services Rendered required by Rule \*122-12, if applicable, receipts for all expenses for which reimbursement is sought, and other required attachments.

(11) The court-appointed counsel will receive a trial preparation fee as provided in Rule \*122-12. Preparation fees for cases will be the same whether the case is resolved by non-trial disposition or by trial.

(12) Court-appointed counsel will be paid a second preparation fee for retrials. Counsel may file a Payment Voucher/Order following a mistrial, and a subsequent Payment Voucher/Order following the retrial.

(13) Court-appointed counsel will be paid a full felony first degree preparation fee for successful decertification motions. In addition, time spent litigating the motion will be compensated at the in-court rate.

(14) When a court-appointed counsel seeks leave to withdraw to enable a privately retained attorney to enter an appearance, the court-appointed counsel may file a Payment Voucher/Order which contains all required information regarding services rendered to date. The judge can determine the appropriate compensation, if any, to be awarded to the withdrawing court-appointed counsel, including authorizing payment of the entire preparation fee. The judge may make this determination when they deem appropriate.

(15) When a court-appointed counsel seeks permission to withdraw or is removed by the court and replaced by another court-appointed counsel, the judge who approves the withdrawal or orders the removal must also determine the appropriate compensation to be awarded to the court-appointed counsel, if any. The judge shall require the filing of a Payment Voucher/Order which contains all required information regarding services rendered until the court-appointed counsel withdrew or was removed and shall determine whether the withdrawing or removed court-appointed counsel shall be paid any, all or part of any preparation fee as may be fair and equitable in light of the timing of the withdrawal or removal. The judge may make this determination when he/she deems appropriate.

(16) When a court appointed counsel seeks permission to withdraw or is removed by the court and is not replaced, the judge who approves the withdrawal or orders the removal may also determine the appropriate compensation to be awarded to the court appointed counsel, if any, if different than the Payment Voucher compensation/order.

(17) Court-appointed counsel will receive a case-appropriate per diem fee as provided in Rule \*122-12 for pre-trial motions that are litigated and for all days spent in court, including jury selection and deliberations, provided that the court-appointed counsel is required to be present in court. In-court and out-of-court time expended by court-appointed counsel seeking a defense continuance is not compensable.

(18) Upon the conclusion of an interim compensable proceeding as specifically set forth in Rule \*122-12 and until final judgment, including any proceedings on direct appeal, the court-appointed counsel may seek compensation for services rendered and for any court approved investigative and expert expenses by completing the applicable Payment Voucher/Order and submitting it as provided in subsection (B) below.

(B) *Submission Process.*

(1) *Time to Submit.* Payment Vouchers/Orders must be submitted (together with a copy of the appointment order) as soon as practicable after the compensable services rendered are deemed payable, as provided in Rule \*122-12. Payment Vouchers/Orders submitted more than ninety (90) days after the payable event may be denied by the Court.

(2) *Place to Submit.* Court-appointed counsel shall submit Payment Vouchers/Orders as follows:

(a) Trial Division-Criminal and Municipal Court Criminal Division: by email at: CriminalVouchers@courts.phila.gov, or by mail or hand-delivery to: The Justice Juanita Kidd Stout Center for Criminal Justice, Information Counter, Second Floor, 1301 Filbert Street, Philadelphia, PA 19107, or as may otherwise be provided from time to time.

(b) Municipal Court Traffic Division: by mail or hand-delivery to: The Philadelphia Municipal Court Traffic Division, Attorney Filing Unit, 800 Spring Garden Street, Philadelphia, PA 19123.

(c) Family Court: by mail or hand-delivery to the Philadelphia Family Court, Legal Liaison Payment Unit, 11th Floor, 1501 Arch Street, Philadelphia, PA 19102.

(C) *Criminal Vouchers. Review by the Court's Quality Assurance Unit. Judicial Approval.*

(1) Court-appointed counsel shall complete the Payment Voucher/Order correctly and completely and submit it, together with all attachments and supporting documents as required by Rule \*122-11, to the trial and/or supervising judge for review.

(2) *Judicial Review and Approval:* In determining the appropriate compensation to be paid to the court-appointed counsel consistent with Rule \*122-12, the court may exercise its discretion when reviewing the reasonableness of the in-court and out-of-court time expended (in applicable cases) and may modify the sums requested as deemed appropriate.

(3) The trial judge and/or supervising judge will complete the Order portion of the Payment Voucher/Order and shall enter the approved compensation that the City of Philadelphia must pay to the court-appointed counsel.

(4) Once the Payment Voucher/Order has been signed by the trial judge and/or supervising judge, court-appointed counsel will submit the completed Payment Order/Voucher to the Court's Quality Assurance Unit ("QAU"). The QAU will review all criminal Payment Vouchers/Orders for compliance with the requirements of this Rule and Rule \*122-12. Payment Vouchers/Orders which do not contain the date of the appointment, do not include a copy of the appointment order and other required attachments, or have not been correctly and fully completed will be rejected and must be re-submitted as directed.

(5) The QAU may make authorized adjustments to the amount payable to the court-appointed counsel. The Payment Voucher/Order will thereafter be transmitted to the City of Philadelphia for payment as noted below.

(D) *Family Division Vouchers. Judicial Approval. Review by the Court's Legal Liaison Payment Unit.*

(1) Court-appointed counsel shall complete the Payment Voucher/Order correctly and completely and submit it, together with all attachments and supporting documents as required by Rule \*122-11, to the trial and/or supervising judge for review.

(2) Judicial Review and Approval: In determining the appropriate compensation to be paid to the court-appointed counsel consistent with Rule \*122-12, the court may exercise its discretion when reviewing the reasonableness of the in-court and out-of-court time expended (in applicable cases) and may modify the sums requested as deemed appropriate.

(3) The trial judge and/or supervising judge will complete the Order portion of the Payment Voucher/Order and shall enter the approved compensation that the City of Philadelphia must pay to the court-appointed counsel.

(4) Once the Payment Voucher/Order has been signed by the trial judge and/or supervising judge, court-appointed counsel will submit the completed Payment Order/Voucher to the Court's Legal Liaison Unit ("LLU"). The LLU will review all criminal Payment Vouchers/Orders for compliance with the requirements of this Rule and Rule \*122-12. Payment Vouchers/Orders which do not contain the date of the appointment, do not include a copy of the appointment order and other required attachments, or have not been correctly and fully completed will be rejected and must be re-submitted as directed.

(5) The Court's Legal Liaison Payment Unit (LLU) will review all Payment Vouchers/Orders, may make authorized adjustments to the amount payable to the court-appointed counsel, and will transmit the Payment Voucher/Order to the City of Philadelphia for payment as noted below.

(E) *Review by the City of Philadelphia's Managing Director's Office.*

(1) Designated staff of the Managing Director's Office ("MDO") will review and process the Payment Vouchers/Orders for payment as provided in this Rule and in Rule \*122-12. The court-ordered compensation amount may not be modified without court approval. In the event the MDO staff believes that the information contained in the Payment Voucher/Order is incomplete or incorrect, they shall, within 10 days of receipt of the Payment Voucher/Order, submit their reasoning in writing to the Administrative Judge of the Division to which the matter pertains, and in the Municipal Court by the President Judge for disputes regarding Philadelphia Municipal Court criminal cases, and to the Administrative Judge of the Traffic Division for Traffic Division cases, or to their respective designees for determination.

(2) Upon review by the Managing Director's Office, the Payment Vouchers/Orders will be transmitted to the Finance Department and to the Controller's Office for their review and approval.

(F) *Payment by the City of Philadelphia.*

(1) The City of Philadelphia must issue payment to court-appointed counsel within sixty (60) days of the date the Payment Voucher/Order was submitted by the Court to the Managing Director's Office. Any delay in processing and payment resulting from an existing tax lien against a court-appointed counsel in accordance with 53 P.S. §§ 16082 and 16083, or incorrect or incomplete information contained in the Payment Voucher/Order shall not be included in the sixty (60) days.

(2) Consistent with Philadelphia Code § 17-1702(1)(b), if payment is not issued as provided in subsection (1) above, the City of Philadelphia shall pay interest on the unpaid amount of compensation at the rate of one and one-half percent (1.5%) per month or part of a month until payment is made. However, payments delayed due

to a declaration of a national, state, or local emergency shall not give rise to this provision unless exercised in bad faith.

*Philadelphia Rule of Judicial Administration*

**Rule \*122-12. Compensation Rates for Court-Appointed Counsel.**

This rule sets forth the schedule of compensation applicable to court-appointed counsel appointed to represent any person eligible for county-paid representation who cannot be represented by the Philadelphia Defender Association and who, for lack of sufficient funds, is unable to obtain legal counsel.

(A) *Compensation Rates for Attorneys Appointed between March 10, 1997, and June 30, 2017.* Compensation rates for attorneys appointed between March 10, 1997, and June 30, 2017, are set forth in the Directive Concerning Court Appointed Counsel Fees issued by the Administrative Governing Board of the First Judicial District of Pennsylvania on February 5, 1997. See AGB Directive No. 01 of 1997.

(B) *Compensation Rates for Attorneys Appointed Between July 1, 2017, and June 30, 2018.* Compensation rates for attorneys appointed between July 1, 2017, and June 30, 2018, are set forth in the June 26, 2017, Order issued by the Administrative Governing Board of the First Judicial District of Pennsylvania, as modified by order issued on September 18, 2017. See AGB Order No. 01 of 2017, as amended.

(C) *Compensation Rates for Court-Appointed Counsel Appointed On and After July 1, 2018.* Compensation for attorneys appointed on and after July 1, 2018, in each Court or Division of the First Judicial District of Pennsylvania is set forth below.

(1) *Court of Common Pleas—Trial Division, Criminal*

(a) *Preparation Fees*

(i) *Homicide Trial Preparation Fee.* Payable after verdict.

(1) Capital-Lead Counsel	\$10,000
(2) Capital-Penalty Phase Counsel	\$7,500
(3) Non-Capital	\$3,500

(4) In order to provide homicide trial experience to attorneys interested in being appointed as counsel in homicide cases, and at the request of the court-appointed counsel, the court may appoint a "Second Chair Non-capital court-appointed counsel" to assist court-appointed counsel in non-capital homicide cases.

The Second Chair Non-capital court-appointed counsel shall be entitled to a fee in the sum of \$600 provided that Second-Chair counsel was present in the courtroom for the duration of the trial, and so certifies on the Payment Voucher/Order.

(5) Court-appointed counsel who tried the case shall be entitled to the applicable preparation fee. In the event prior court-appointed counsel was removed or permitted to withdraw, the trial judge determines the amount payable to such previously appointed counsel as provided in Phila.R.J.A. No. \*122-11(A)(14) and (15). The judge may make this determination when he/she deems appropriate.

(6) Retrial Preparation Fee is to be determined by the assigned judge.

(ii) *Felony Trial Preparation Fee.* Payable after verdict.

(1) First Degree Felony	\$1,200	(j) <i>Extradition</i> . Payable after the disposition of Extradition hearing	\$200
(2) Other Felonies	\$750	(k) <i>Bench Warrant Hearing</i> . Payable at the conclusion of the hearing	\$100
(3) Court-appointed counsel who tried the case shall be entitled to the applicable preparation fee. In the event prior court-appointed counsel was removed or permitted to withdraw, the trial judge determines the amount payable to such previously appointed counsel as provided in Phila.R.J.A. No. *122-11(A)(14) and (15). The judge may make this determination when he/she deems appropriate.		(l) <i>Specialty Court Hearing</i> . Payable at the conclusion of the hearing	\$100
(4) Retrial Preparation Fee is to be determined by the assigned judge.		(m) <i>Status of Compliance</i> .	\$100
(b) <i>Per Diem Fees</i>		(n) <i>Motion for Reconsideration</i> .	\$100
(i) <i>Homicide Case. Per Diem Trial Fee</i> . Payable after disposition of the case (after verdict).		(o) <i>Resentencing (Post-Trial complete)</i> .	\$175
(1) Capital—Each Full Day (more than 3 hours)	\$700	(p) <i>Refile of charges—Case disposed</i> .	\$225
(2) Capital—Each Half Day (3 hours or less)	\$400	(2) <i>Court Of Common Pleas—Family Division-Delinquent</i>	
(3) Non-capital—Each Full Day (more than 3 hours)	\$600	(a) <i>Felony</i> . Payable after disposition of the case	\$550
(4) Non-capital—Each Half Day (3 hours or less)	\$300	(b) <i>Misdemeanor</i> . Payable after disposition of the case	\$450
(ii) <i>Homicide Case. Mitigation Per Diem Trial Fee</i> . Payable after disposition of the case (after verdict).		(c) <i>Consent Decree</i> . Payable upon entry of Consent Decree at JJSC	\$225
(1) Each Full Day (more than 3 hours)	\$200	(d) <i>Delinquent Review</i> . Per Hearing. Payable after each Review Hearing	\$75
(2) Each Half Day (3 hours or less)	\$100	(e) <i>On Call Counsel</i> . (No Appointment) Payable after the date of service	\$350
(iii) <i>Felony Case. Per Diem Trial Fee</i> . Payable after disposition of the case (after verdict).		(f) <i>Private Counsel Retained</i> . Payable after disposition of the case	\$225
(1) Each Full Day (more than 3 hours)	\$450	(i) <i>Fifth Amendment Witness</i> . Payable after disposition of the case	\$225
(2) Each Half Day (3 hours or less)	\$225	(ii) <i>Bench Warrant</i> . Payable after disposition of the hearing (BW lifted)	\$225
(c) <i>Homicide Appellate/PCRA Fee</i> . Payable upon completion of the compensable event, at the discretion of the Judge.		(g) <i>Rape, IDSI &amp; Juvenile Felony Sex Case</i> . Payable after disposition of the case (Requires 3 annual CLE credits & court certification)	\$750
(i) Payable on an hourly basis at the rate of (in-court and out of Court)	\$85 per hour	(h) <i>Protection from Abuse D.R.</i>	\$350
(ii) Maximum Fee	\$6,000	(3) <i>Court Of Common Pleas—Family Division-Dependent</i>	
(iii) A Chronological List of Services Rendered must be attached to the Payment Voucher/Order		(a) <i>First Year</i> . Amount payable after the:	
(d) <i>Felony Appellate/PCRA Fee</i> . Payable upon completion of the compensable event, at the discretion of the Judge.		(i) First Hearing	\$200
(i) Payable on an hourly basis at the rate of (in-court and out of Court)	\$65 per hour	(ii) Second Hearing	\$200
(ii) Maximum Fee	\$2,400	(iii) Third Hearing	\$175
(iii) A Chronological List of Services Rendered must be attached to the Payment Voucher/Order		(iv) Fourth Hearing	\$175
(f) <i>Violation of Probation Hearing Fee</i> . Payable upon disposition of the hearing.	\$150	(v) The total annual fee shall not exceed \$750. If dismissed during the first year, court-appointed counsel shall be paid the outstanding balance of	\$750
(g) <i>Fifth Amendment Witness Fee</i> .		(b) <i>Second Year</i> . Amount payable after the:	
(i) <i>Criminal Case</i> . Payable after services are rendered	\$150	(i) First Hearing	\$125
(ii) <i>Investigating Grand Jury</i> . Payable at the conclusion of the witness' appearance before the Investigating Grand Jury Payable on an hourly basis at the rate of	\$65 per hour	(ii) Second Hearing	\$125
(h) <i>Contempt Hearing Fee</i> . Payable at the conclusion of the contempt hearing	\$150	(iii) Third Hearing	\$100
(i) <i>Early Parole Petition Fee</i> . Payable after the disposition of the petition	\$250	(iv) Fourth Hearing	\$100
		(v) The total annual fee shall not exceed \$450. If dismissed during the second year, court appointed counsel shall be paid the outstanding balance of	\$450
		(c) <i>Third Year and Subsequent Years</i> . Amount payable after the:	
		(i) First Hearing	\$75
		(ii) Second Hearing	\$75
		(iii) Third Hearing	\$75



(iv) Fourth Hearing	\$75	(6) <i>Philadelphia Municipal Court Traffic Division</i>	
(d) <i>On-Call Counsel Fee</i> . (No Appointment) Payable after the date of service	\$350	(a) <i>On-Call Counsel</i> . Payable after the date of service	\$350
(e) <i>Appeal</i> . Payable at disposition of the Appeal		(b) <i>Traffic Division Appeal</i> . Payable after disposition of the appeal.	\$450
(i) Payable on an hourly basis at the rate of	\$65, out of Court	(i) Should the defendant/appellant fail to appear for the de novo hearing, a bench warrant may be issued for the defendant's/appellant's arrest, and court-appointed coun- sel shall be entitled to bill the sum of \$100 provided court-appointed counsel was ready to proceed on the date of the de novo hearing.	
(ii) Payable on an hourly basis at the rate of	\$75, Court	(ii) Upon defendant's arrest, court-appointed counsel shall be entitled to bill the sum of \$100 for the bench warrant hearing or the sum of \$450 if the de novo hearing is held on the same date as the bench warrant hearing date.	
(iii) Maximum Fee	\$2,400	(D) <i>Expenses Incurred by Court-Appointed Counsel in Representation of Persons Eligible for Court-Appointed Counsel</i>	
(iv) A Chronological List of Services Rendered must be attached to the Payment Voucher/Order		(1) <i>Investigators</i> . Payable after services are rendered.	
(f) <i>Adoption</i> . AP matter only—Payable at conclusion of proceedings		(a) <i>Criminal</i> .	
(i) Payable on an hourly basis at the rate of	\$65, out of Court	(i) Payable on an hourly fee basis at the rate of	\$40 per hour
(ii) Payable on an hourly basis at the rate of	\$75, in Court	(ii) Maximum Fee without prior court approval—Homicide	\$750
(iii) Maximum Fee	\$2,400	(iii) Maximum Fee without prior court approval— Felony	\$500
(iv) A Chronological List of Services Rendered must be attached to the Payment Voucher/Order		(iv) Amounts in excess of the above Maximum Fee amounts must be approved, upon petition, by the presid- ing judge and, as applicable, the President Judge, Admin- istrative Judge, Supervising Judge or their designees before services are rendered.	
(4) <i>Court of Common Pleas—Family Division, Domestic Relations Branch</i>		(v) If more than one investigator is retained through the course of the case, the judge may grant the guaran- teed initial fees to each investigator.	
(a) <i>Contempt On-Call Counsel</i> . Payable after the date of service		(b) <i>Family Division—Delinquent and Dependent</i> .	
(i) All Day Assignment	\$350	(i) Payable on an hourly fee basis (in and out of court) at the rate of	\$40 per hour
(5) <i>Philadelphia Municipal Court Criminal Division</i>		(ii) Initial Fee Payable at appointment— Delinquent	\$100
(a) <i>Municipal Court Trial</i> . Payable after disposition of the case (after verdict)	\$450	(iii) Maximum Fee	\$500
(b) <i>Private Criminal Complaint</i> .		(iv) Additional fee must be approval by the trial judge and the Administrative Judge or Supervising Judge	
(i) Summary	\$150	(c) A Chronological List of Services Rendered must be attached to the Payment Voucher/Order, together with all receipts for any expenses for which reimbursement is requested.	
(ii) Misdemeanor	\$450	(2) <i>Expert Witnesses</i> . Payable after services are ren- dered.	
(c) <i>Status Hearing</i> . Payable after the conclusion of the Status hearing		(a) All expert witnesses may only be retained upon petition to the presiding judge who must determine the necessity for the expert, the indigency of the defendant or other person eligible for court-appointed counsel, the hourly rate that the expert is authorized to charge, and, subject to subsection (c) below, the maximum amount that the expert witness is authorized to charge.	
(i) Mental Health Court	\$100	(b) Amounts in excess of \$7,500 must be approved by the presiding judge and, as applicable, the President Judge, Administrative Judge, Supervising Judge or their designees.	
(ii) Treatment Court	\$100		
(iii) Diversion	\$100		
(iv) Early Bail Review Hearings	\$100		
(v) Bench Warrant Hearing	\$100		
(vi) Other Status Hearing	\$100		
(d) <i>Preliminary Hearing</i> . Payable after the conclusion of the preliminary hearing	\$225		
(e) <i>Violation of Probation Hearing</i> .			
(i) Payable after the hearing.	\$150		
(ii) Payable if Continued Until Further Notice (Open Bills) or if Continued to Date Certain	\$100		
(f) <i>Fifth Amendment Witness</i> . Payable after services are rendered	\$150		
(g) <i>Contempt</i> . Payable after the conclusion of the contempt proceedings	\$150		
(h) <i>Early Parole Petition</i> . Payable after disposition of the Parole Petition	\$250		
(i) <i>Non-Traffic Summary Offenses</i> . Payable after disposition	\$150		
(j) <i>Refile of charges—Case disposed</i> .	\$225		

(c) A Chronological List of Services Rendered must be attached to the Payment Voucher/Order.

(3) *Other expenses.* Payable after services are rendered or after disposition of the case.

Other expenses incurred by court-appointed counsel will not be reimbursed unless before they are incurred, court-appointed counsel has petitioned the court, and established the need for such expenses, which are approved by the court. As part of such pre-approval, the court may set forth the hourly rate and/or the maximum amount payable in connection with such expenses, which shall be paid by the City of Philadelphia after the services are rendered or upon conclusion of the case, as provided by the court.

(E) *Expenses incurred by or on behalf of indigent persons represented by pro bono counsel or by privately retained counsel.*

Indigent persons who are represented by pro bono counsel or by privately retained counsel may be entitled to the award of public funds to hire experts or to incur other expenses to assist in the defense of criminal charges. Approval must be sought by motion filed with the court, and upon an affidavit from counsel or hearing establishing the need for the expert or other expenditure as well as the person's inability to pay. If approved, provisions of Rule \*122-12(D) shall apply.

*Explanatory Note:* See *Commonwealth v. Cannon*, 954A.2d 1222 (Pa. Super. 2008) and *Commonwealth v. Konias*, 136 A. 3d 1014 (Pa. Super. 2016).

(F) *Payment to Court Appointed Counsel in Extraordinarily Complex Cases*

Notwithstanding any of the above fee provisions, the Court of Common Pleas judge before whom a case is being tried or was tried, shall have the discretion, in extraordinarily complex cases requiring court-appointed conflict counsel, to request that counsel be compensated at a rate to be determined by applicable Supervising Judge, Administrative Judge or President Judge.

(G) The City of Philadelphia shall compensate court-appointed counsel as provided in this Rule and in Phila.R.J.A. No. \*122-11. The award of compensation and expenses under this Rule shall be a charge upon the City and County of Philadelphia, to be paid by the City Treasurer, upon the order of the appropriate Judge as provided in this Rule and in Phila.R.J.A. No. \*122-11.

(H) Any disputes concerning the interpretation of any of the provisions of this Rule and Phila.R.J.A. No. \*122-11 shall be determined in the Court of Common Pleas by the Administrative Judge of the Division to which the matter pertains, and in the Municipal Court by the President Judge for disputes regarding Philadelphia Municipal Court criminal cases, and by the Administrative Judge of the Traffic Division for Traffic Division cases, or by their respective designees.

(I) To the extent any local rule, administrative order or memoranda governing payment of court-appointment counsel is in conflict with any provision of this order, the provisions contained in this order prevail and the conflicting local rule, order or memoranda are deemed to have been rescinded.

*Note:* Adopted on June 28, 2022, effective July 28, 2022. See President Judge General Court Regulation No. 2022-11. Published in the *Pennsylvania Bulletin* on July 16, 2022.

[Pa.B. Doc. No. 22-1040. Filed for public inspection July 15, 2022, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### GREENE COUNTY

#### Designation of a Local Rule Formal Arraignment; C.A. No. 16 of 2022

##### Administrative Order

##### Designation of a Local Rule—Formal Arraignment

*And Now*, this 5th day of July, 2022, it is *Ordered* that effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*, any previous Local Court Rule or administrative order, or part thereof, which is in conflict with this Order is repealed or vacated, until otherwise Ordered. All other Local Court Rules are to remain in effect.

Rule 571 of the Pennsylvania Rules of Criminal Procedure dictates the procedure with regard to the time required to schedule arraignment after the filing of an information. This rule of procedure contemplates that a local rule can be implemented.

Upon the filing of an information by the Greene County District Attorney, the Greene County Clerk of Court need not schedule formal arraignment within ten (10) days of that filing, but instead shall schedule the matter for formal arraignment at the next available time for formal arraignment.

The District Court shall provide scheduling notice of the time and place for formal arraignment in the Greene County Court of Common Pleas.

A written waiver of formal arraignment can be filed by a Defendant who is represented by counsel at any time up to and including the time scheduled for formal arraignment. For the purpose of determining time limits for action regarding the following: Bill of Particulars, Discovery, Notice of Alibi Defense, and any Omnibus Pre-Trial Motions, the time shall commence from the date scheduled for formal arraignment, not the date of the filing of any waiver of formal arraignment.

This Order shall designate Greene County Local Rule G571 Formal Arraignment.

*Further*, the District Court Administrator shall file the original of this order with the Prothonotary.

*So Ordered and Decreed*

*By the Court*

LOUIS DAYICH,  
*President Judge*

##### Local Rule G571. Formal Arraignment.

The Thirteenth Judicial District, Greene County, Pennsylvania, now promulgates a local rule pursuant to the appropriate procedure related to formal arraignment.

Rule 571 of the Pennsylvania Rules of Criminal Procedure dictates the procedure with regard to the time required to schedule arraignment after the filing of an information. This rule of procedure contemplates that a local rule can be implemented. This rule becomes effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin* and is as follows:

Upon the filing of an information by the Greene County District Attorney, the Greene County Clerk of Court need not schedule formal arraignment within ten (10) days of

that filing, but instead shall schedule the matter for formal arraignment at the next available time for formal arraignment.

The District Court shall provide scheduling notice of the time and place for formal arraignment in the Greene County Court of Common Pleas.

A written waiver of formal arraignment can be filed by a Defendant who is represented by counsel at any time up to and including the time scheduled for formal arraignment. For the purpose of determining time limits for action regarding the following: Bill of Particulars, Discovery, Notice of Alibi Defense, and any Omnibus Pre-Trial Motions, the time shall commence from the date scheduled for formal arraignment, not the date of the filing of any waiver of formal arraignment.

[Pa.B. Doc. No. 22-1041. Filed for public inspection July 15, 2022, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Hearing

A Petition for Reinstatement to the active practice of law has been filed by John T. Lynch, Jr. and will be the subject of a hearing on October 13, 2022 before a hearing committee designated by the Board. Anyone wishing to be heard in reference to this matter should contact the District I Office of the Disciplinary Board of the Supreme Court of Pennsylvania, 1601 Market Street, Suite 3320, Philadelphia, Pennsylvania 19103, phone number (215) 560-6296, on or before September 29, 2022.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 22-1042. Filed for public inspection July 15, 2022, 9:00 a.m.]

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