

**CHAPTER 65. OPERATING PROCEDURES
OF THE SUPERIOR COURT****ADMINISTRATIVE OFFICES
AND STAFF**

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Source

The provisions of this Chapter 65 amended June 15, 1990, effective June 16, 1990, 20 Pa.B. 3147, unless otherwise noted. Immediately preceding text appears at serial pages (89345) to (89354) and (99803).

ADMINISTRATIVE OFFICES AND STAFF**§ 65.0. Introduction.**

These operating procedures are intended to implement Article V of the Constitution of Pennsylvania, statutory provisions, the Pennsylvania Rules of Appellate Procedure and the customs and traditions of this Court. No substantive or procedural rights are created, nor are any such rights diminished.

Source

The provisions of this § 65.0 adopted September 19, 2012, effective immediately, 43 Pa.B. 298 as § 65.1; renumbered as § 65.0 as adopted by the Superior Court.

§ 65.1. Executive Administrator.

The President Judge may appoint an Executive Administrator who shall be the administrative officer of the Superior Court and who shall report directly to the President Judge. The Executive Administrator shall carry out assignments necessary to the efficient operation of the court including:

1. analyzing administrative operations;
2. conducting independent research;
3. preparing the budget and providing for expenditure control, financial accounting, procurement of supplies, facilities management, and telecommunications.

Source

The provisions of this § 65.1 renumbered as § 65.1a September 19, 2012, effective immediately, 43 Pa.B. 298; reversed renumbering at request of Superior Court.

§ 65.2. Prothonotary.

A. The Prothonotary is an officer of the Superior Court who is charged with the clerical duties and responsibilities of the business of the Court. The duties and responsibilities of the Prothonotary include but are not limited to:

1. keeping the records and seal of the Court;
2. issuing, processing, and entering judgments and orders at the direction of the Court;
3. certifying copies from the records of the Court;
4. scheduling all hearings and arguments before the Court, preparing the calendar, and coordinating judicial schedules;
5. supervising the collection of all fees collected by the Court and ensuring the proper receipt and distribution of such fees; overseeing the preparation of the Court's official record of proceedings, attesting to their accuracy, and providing for distribution;
6. promptly securing all records wherein appeals have been filed and, where provided by Rule of Appellate Procedure, dismissing an appeal for failure to comply with the Rules or Order of the Court;
7. prepare the daily judgment lists for the Reporter to post pursuant to O.P. 65.3.B; and
8. any other such duties as required by the Court.

B. Opinions filed with the Prothonotary are to be made available to the parties and the public promptly thereafter.

Source

The provisions of this § 65.2 amended June 30, 2022, effective June 30, 2022, 52 Pa.B. 4231. Immediately preceding text appears at serial page (403553).

§ 65.3. Reporter.

A. The Reporter shall be a member of the administrative staff of the Court whose duties and responsibilities include:

1. maintaining accurate journals and recording the votes and miscellaneous correspondence on all opinions, memoranda, and petitions for reargument for each case before the Court;
2. preparing statistical reports, in cooperation with the legal systems coordinator, which shall indicate the number of decisions rendered each year by the Court;
3. compiling assignment lists and records of the case assignments of the judges;
4. maintaining a record of all panels and compiling paperbooks which shall be kept until cases have been reported to the printer;
5. preparing and preserving for a reasonable period of time correspondence to and from the Superior Court printer; and

6. preparing a digest to inform the Court of recent Supreme Court and *en banc* Superior Court decisions.

B. In conjunction with the Prothonotary's responsibility pursuant to O.P. 65.2.A.7, the Reporter shall verify and post the daily judgment lists of the Court.

Source

The provisions of this § 65.3 amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended June 30, 2022, effective June 30, 2022, 52 Pa.B. 4231. Immediately preceding text appears at serial pages (403553) to (403554).

§ 65.4. Court Crier.

A. Court Criers shall be responsible for courtroom operations including:

1. opening and adjourning the Court and maintaining order in the courtroom;
2. assembling and making proper distribution of case briefs and records;
3. preparing the journals of the Court and of the Prothonotary;
4. maintaining a list of the Cases Book, which shall contain the date of argument or hearing, the judges present, and the names of counsel for the parties;
5. coordinating security in the courtroom;
6. performing related work as required by the Court.

§ 65.5. Panels.

A. Except as otherwise provided by these rules, all appeals, whether argued or submitted, shall be assigned to and decided by panels consisting of three judges. A panel may make any order or render any judgment therein. Every such order made or judgment rendered by a panel shall be made and given effect as an order or judgment of the Court and shall be so entered by the clerk.

B. The President Judge shall appoint the panels, assign cases to the panels, and designate the time, date, and place in which the panels shall sit.

C. 1. After the Prothonotary has listed the cases for an argument panel, but before the actual argument of the cases: (a) if a member of a panel becomes unable to participate in the disposition of a particular case, the presiding judge of that panel shall notify the President Judge or his/her designee, and the President Judge or his/her designee shall secure another judge to sit on that case; (b) if a member of a panel becomes unable to participate in a particular panel, the President Judge or his/her designee shall designate and assign another judge to sit on the panel.

2. After the Prothonotary has listed the cases for a submitted panel: (a) if a member of a panel becomes unable to participate in the disposition of a particular case, the case may be decided by the two remaining judges if they agree on the entire disposition of the case; if the two remaining judges are unable to agree on the entire disposition of the case, the panel shall proceed in accordance with § 65.5F.; (b) if a member becomes unable to participate in a particular panel, the President Judge or his/her designee shall designate and assign another judge to the panel.

3. If, after oral argument on a case, a judge becomes unable to participate in the disposition of a particular case, the case may be decided by the two remaining judges if they agree on the entire disposition of the case. If the two remaining judges are unable to agree on the entire disposition of the case, the panel shall proceed in accordance with § 65.5F.

4. If a judge on a motions panel is unable to participate in the review of a particular motion, the motion may be decided by the two remaining judges. In the event that the two remaining judges are unable to agree on a disposition, they shall request the President Judge or his/her designee to assign another judge to sit in review of the motion.

D. The presiding judge of each panel shall be the commissioned judge highest in seniority, except where the panel includes the President Judge who shall then be the presiding judge. The presiding judge shall preside at all panel sessions, assign the cases, and record the assignment of cases. The presiding judge shall transmit to the members of the panel and the Reporter a record of all assignments and/or other actions taken by the panel.

E. All discussions, votes, and drafts of decisions prior to the filing of the final decision shall remain confidential.

F. If, following argument or submission, a member of the three judge panel assigned to decide an appeal becomes unavailable, and the remaining two judges are unable to decide the appeal, they shall request the President Judge or his/her designee to either reassign the appeal for reargument or submission before another panel, or they may request that the appeal be reargued before a court en banc. If the full court shall decline to accept the appeal for reargument before a court en banc, the President Judge or his/her designee shall reassign the same to another three judge panel for reargument or submission and decision.

G. Cases remanded to this Court from the Supreme Court for further disposition shall be returned to the panel originally assigned to the case. In the event that the original panel cannot be reconstituted, for instance as a result of retirement from the court, the president judge, in consultation with any remaining members of the merits panel, will create a new argument or submission panel depending on the nature of the remand. If an en banc case is remanded, the president judge will determine if the case can be submitted or argued to the same members of the original en banc court or whether the case should be reargued or submitted to a new en banc court which would include as many members of the original en banc panel as feasible.

Comment

In accordance with Pa.R.A.P. 3102(a), a panel of three judges constitutes a quorum of the Court. 42 Pa.C.S. § 325(e)(1) authorizes the President Judge to make assignments. Subdivision (C) and (D) of this rule do not alter the effect of Pa.R.A.P. 3102(b).

Source

The provisions of this § 65.5 amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended December 23, 2003, effective immediately, 34 Pa.B. 379; amended September 15, 2010, effective immediately, 40 Pa.B. 6078; amended September 11, 2013, effective September 11, 2013, 44 Pa.B. 6223; amended June 14, 2017, effective immediately, 47 Pa.B. 6362. Immediately preceding text appears at serial pages (378610) to (378611).

§ 65.6. Courts en banc.

A. A Court en banc shall consist of not more than nine commissioned judges of the Superior Court.

B. The President Judge shall assign the judges to each en banc panel and shall designate the location, the time, and the date of each session. The presiding judge of a Court en banc shall be the commissioned judge highest in seniority, except where the Court en banc includes the President Judge, who shall then preside.

C. At the conclusion of each en banc session, the presiding judge shall forward to all judges, the Prothonotary, the Chief Staff Attorney, the administrative

assistant to the President Judge, and the Reporter a record of all assignments and other action taken during the session.

Comment

In accordance with Pa.R.A.P. 3103(a), the Court en banc shall consist of no more than nine active members of the Court. *See also:* § 65.41.

Source

The provisions of this § 65.6 amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended September 15, 2010, effective immediately, 40 Pa.B. 6078. Immediately preceding text appears at serial pages (342596) to (342597).

§ 65.7. Central Legal Staff.

Central Legal Staff is an office of the Court created for the purpose of assisting the Court in:

1. reviewing and processing motions;
2. preparing memos for the Court as directed;
3. screening cases;
4. reviewing proposed decisions to advise the Court of apparent conflicts or of conflict-clearance; and
5. accepting such other responsibilities as may be assigned by the Court or the President Judge.

Source

The provisions of this § 65.7 amended June 30, 2022, effective June 30, 2022, 52 Pa.B. 4231. Immediately preceding text appears at serial page (403556).

§ 65.8. Composition of Staff.

A. The Central Legal Staff is comprised of members of the Bar of the Commonwealth of Pennsylvania and serves the interests of the Court as a whole and assists the Judges in procedural and substantive matters under the direction of the President Judge.

B. The staff is supervised by the Chief Staff Attorney. The Chief Staff Attorney shall prepare and make available to the members of the Court written Internal Operating Procedures for all aspects of Central Legal Staff's operations.

§ 65.9. Confidentiality Considerations.

A member of staff owes a duty of confidentiality to the judges of the Superior Court. This duty extends to matters concerning any opinions, statements, or events with respect to the decision-making process of the Court. A staff member should avoid even informal contact with attorneys or litigants with respect to a matter pending before the Court. An attorney should refrain from discussions outside the Court, public or private, regarding the merits of pending proceedings. Matters involving the decision-making process are inappropriate for discussion outside the Court, including but not limited to the assignment of a case to a particular judge, the motions assignment judge, or the identity of the judge who may have signed an order in a case per curiam.

Source

The provisions of this § 65.9 amended November 20, 2003, effective immediately, 33 Pa.B. 5913. Immediately preceding text appears at serial page (216471).

§ 65.10. Disqualification Considerations.

A member of staff shall disqualify himself or herself in a proceeding in which his or her impartiality might reasonably be questioned.

§ 65.11. Practice of Law.

Staff attorneys must be members of the Bar of the Commonwealth of Pennsylvania; however, they may not engage in the practice of law outside the Court. The prohibited practice of law, for the purpose of this rule, includes the acceptance of appointment to, or participation in the deliberations of, arbitration panels appointed pursuant to 42 Pa.C.S. §§ 7361—7362. This prohibition, however, does not extend to the limited representation of relatives who may be in need of legal assistance.

§ 65.12. Initial Review of Docketing Statements.

Central Legal Staff is responsible for the screening of docketing statements filed pursuant to Pa.R.A.P. 3517. These statements are to be initially screened to determine if the appeal is jurisdictionally or procedurally defective. Failure to file a timely docketing statement may result in dismissal of the appeal. However, no appeal shall be subject to being quashed or dismissed on the basis of review of the completed docketing statement alone; rather, if a potential defect is identified, a rule-to-show-cause order shall issue to the appellant as to why the appeal should not be quashed or dismissed. Following notification to counsel, the appeal is subject to being quashed or dismissed by the assigned monthly motions judge.

Source

The provisions of this § 65.12 amended June 30, 2022, effective June 30, 2022, 52 Pa.B. 4231. Immediately preceding text appears at serial page (403557).

§ 65.13. Political Activity.

Appointed judicial employees are not permitted to engage in partisan political activities.

Comment

See Supreme Court Order of June 29, 1987, 82 Judicial Administration Docket No. 1., In re: Prohibition of Political Activities by Court-Appointed Employees.

§ 65.14. Children’s Fast Track and Other Family Fast Track Appeals.

A. In accordance with Pa.R.A.P. 102, revised in 2009, and in accordance with a program first established in this court in 2000, the court shall expedite handling of appeals involving parent-child relationships as follows:

1. Children’s Fast Track: All cases involving dependency, termination of parental rights, adoption, custody, or paternity shall be designated as Children’s Fast Track in the Superior Court.
2. Other Family Fast Track: Central Legal Staff in its discretion may expedite other appeals involving the parent-child relationship. Such cases shall be designated “Other Family Fast Track.”

B. For all cases designated as Children’s Fast Track or Other Family Fast Track, primary responsibility for monitoring the receipt of the record shall rest with the Central Legal Staff.

1. Upon receipt of an appeal that has been designated Children’s Fast Track appeal by the trial court and/or the parties, the Prothonotary shall forward a letter from the President Judge of the Superior Court to the trial court judge, with copies to the clerk of the lower court, counsel for the parties or to the parties themselves if they are proceeding pro se, and Central Legal Staff. The letter shall stress the importance of the trial court’s duty to send the record to the Superior Court in a timely manner, and shall stress the Superior Court’s internal operating policy with respect to extensions of time for briefing, as set forth in § 65.21 B.2.

2. In all cases designated Other Family Fast Track by the Superior Court, the Central Legal Staff shall forward the letter from the President Judge as set forth in the preceding paragraph B.1.

3. Upon receipt of an appeal that has not been designated Children's Fast Track by the trial court or the parties, the Prothonotary or Central Legal Staff may designate the appeal as a Children's Fast Track appeal if the circumstances so warrant. In such a case, the procedures set forth in paragraph B.1. or B.2. above will apply.

Source

The provisions of this § 65.14 adopted March 16, 2009, effective immediately, 39 Pa.B. 1613.

MOTIONS PRACTICE

§ 65.21. Motions Review Subject to Single Judge Disposition.

A. Except as otherwise provided in § 65.22, a single judge of this Court, whether commissioned or specially assigned, may entertain and may grant or deny any request for relief which under the Rules of Appellate Procedure may properly be sought. A party may file an answer to an application, Pa.R.A.P. 123(b); a speaking application shall be verified unless the interest of justice requires action without it, Pa.R.A.P. 123(c); oral argument will not be permitted unless otherwise ordered by the Court, Pa.R.A.P. 123(d). The action of a single judge may be reviewed by the Court.

Comment

Section 65.21(A) merely reaffirms the procedure codified in Pa.R.A.P. 123. A single judge may grant or deny relief requested by a proper application, Pa.R.A.P. 123(e). However, the Court may by order or rule provide that an application or class of applications must be acted upon by the Court.

B. All petitions for extension of time shall be referred by the Prothonotary to the motions judge. Such petitions should be acted upon as soon as possible unless the motions judge feels an answer is necessary.

1. Petitions for extension shall be granted only on cause shown and in any event the filing of the brief is required, particularly in criminal cases, even though the right to argue is lost. However, if the petition for extension is accompanied by a substantive motion, such as a motion to quash, remand, or withdraw, Central Legal Staff shall review the motion in an expeditious manner pursuant to the procedures set forth in Section 65.21(D).

2. Notwithstanding any contrary procedures set forth above, all petitions for extension of time to file a brief in cases designated Children's Fast Track or Other Family Fast Track, upon receipt by the Prothonotary, shall be sent to Central Legal Staff for processing. All such petitions shall be presented to a motions judge for disposition within three days of receipt of the petition by Central Legal Staff. Petitions for extension of time to file a brief in Children's Fast Track or Other Family Fast Track cases shall be granted only upon a showing of good cause and extraordinary circumstances. Generalities such as the purpose of the motion is not for delay or that counsel is too busy will not constitute either good cause or extraordinary circumstances. Extensions for time should rarely be granted, and when granted should rarely be for a period in excess of seven days.

C. All other motions, petitions or applications for relief subject to this rule, shall, upon receipt by the Prothonotary, be transmitted to Central Legal Staff.

D. Central Legal Staff, upon receiving an application for relief pursuant to subsection C, shall review the application and prepare a recommendation and

present the application and recommendation to the assigned motions judge at a time and place convenient to the motions judge. Central Legal Staff may also present recommendations for *sua sponte* orders deemed necessary to correct or clarify preliminary procedural matters.

E. The motions judge may decide the application on the basis of the application or may require the filing of an answer or briefs, or the motions judge may schedule a hearing thereon.

F. Unless ordered by the Court, oral argument will not be permitted.

G. It is within the discretion of a single judge to whom an application has been referred to decide the motion or to have it presented to a motions panel. Pa.R.A.P. 123(e).

(As amended, effective 1/1/97)

H. Once a case is scheduled before a panel, all motions filed thereafter shall be referred to that panel.

I. Motions for continuance are to be referred to the presiding judge of the panel who alone may decide the motion, or who may obtain a vote of the other judges of the panel by letter or phone.

J. Any motions for mandamus, prohibition and writs of habeas corpus where no direct appeal is pending shall be referred by the Chief Staff Attorney to the assigned motions judge.

Comment

See *Municipal Publications v. Court of Common Pleas of Philadelphia County*, 507 Pa. 194, 489 A.2d 1286 (1985).

Source

The provisions of this § 65.21 amended November 11, 1994, effective September 29, 1994, 24 Pa.B. 5651; amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended January 16, 2004, effective December 24, 2003, 34 Pa.B. 379; amended March 16, 2009, effective immediately, 39 Pa.B. 1613; amended August 25, 2014, effective August 25, 2014, 44 Pa.B. 6223. Immediately preceding text appears at serial pages (342599) to (342601).

§ 65.22. Motions Review Subject to Motions Panel Disposition.

A. Motions to Quash or Dismiss Appeals, Petitions for Permission to Appeal pursuant to Pa.R.A.P. 312, 1301—1323 and 42 Pa.C.S. § 702(b), and Petitions for Review pursuant to Pa.R.A.P. 1501 et seq. shall be subject to review and disposition by a panel of three judges.

B. After a motion subject to this Rule has been filed with the Prothonotary's office, the Prothonotary shall forward the motion to Central Legal Staff which shall prepare and circulate to the motions panel a legal memorandum and recommendation.

1. Votes thereon shall be due three weeks from the date on which the motion and accompanying documents are sent by Central Legal Staff, unless the case has been designated Children's Fast Track or Other Family Fast Track.

2. Votes on cases which have been identified as Children's Fast Track or Other Family Fast Track shall be due two weeks from the date on which the motion and accompanying documents are sent by Central Legal Staff.

C. If, in reviewing motions to be referred to a motions panel, Central Legal Staff determines that the motion is patently defective or the appeal is clearly defective or can be disposed of based upon established case law, the motion may be presented to the assigned motions judge.

D. Where a motions panel denied a motion to quash or dismiss, it shall be denied without prejudice to the moving party's right to again raise the issue(s) presented by the motion before the merits panel by refiling the original motion in writing or preserving the issue in the written brief.

Source

The provisions of this § 65.22 amended November 11, 1994, effective September 29, 1994, 24 Pa.B. 5651; amended December 27, 1996, effective January 1, 1997, 26 Pa.B. 6180; amended February 7, 1997, effective February 10, 1997, 27 Pa.B. 715; amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended October 25, 2007, effective immediately, 37 Pa.B. 6200; amended March 16, 2009, effective immediately, 39 Pa.B. 1613; amended June 14, 2017, effective immediately, 47 Pa.B. 6362. Immediately preceding text appears at serial pages (378615) to (378616).

§ 65.23. Discontinuances.

A. Discontinuances shall be reviewed pursuant to Pa.R.A.P. 1973.

B. Fugitive appeals will be quashed rather than discontinued on motion of the District Attorney or sua sponte by the Court. See Pa.R.A.P. 1972(6), *Commonwealth v. Passaro*, 504 Pa. 611, 476 A.2d 346 (1984).

Source

The provisions of this § 65.23 amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended August 25, 2014, effective August 25, 2014, 44 Pa.B. 6223. Immediately preceding text appears at serial pages (342601) to (342602).

§ 65.24. Hybrid Representation.

Where a litigant is represented by an attorney before the Court and the litigant submits for filing a petition, motion, brief or other type of pleading in the matter, it shall not be accepted for filing, but noted on the docket and forwarded to counsel of record.

Exceptions:

1. A pro se notice of appeal received from the trial court shall be docketed, even in instances where the pro se was represented by counsel in the trial court.
2. A motion by the pro se for appointment of new counsel, for reasons such as abandonment by counsel, or to proceed pro se shall be docketed and referred to Central Legal Staff, or the merits panel if constituted, for review and further action by the Court.
3. A pro se brief or writing filed in response to counsel's petition to withdraw from representation.

Source

The provisions of this § 65.24 amended August 25, 2014, effective August 25, 2014, 44 Pa.B. 6223. Immediately preceding text appears at serial page (342602).

§ 65.25. Assignment of Judges to Motions Duty.

A. The President Judge shall be responsible for assigning the Commissioned, Senior and specially assigned Judges of the Court to Motions Duty in the West-

ern, Middle and Eastern Districts. All motions shall be presented to the judge assigned motions duty unless otherwise provided in these Rules or in exigent circumstances.

B. The President Judge shall set the motions panel. Each motions panel shall consist of three judges and shall serve for a period of two months. During each two-month period, the motions panel shall consider all Section 65.22 motions ready for disposition during the two-month period.

Source

The provisions of this § 65.25 amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended October 25, 2007, effective immediately, 37 Pa.B. 6200. Immediately preceding text appears at serial pages (302214) and (301501).

§ 65.26. Notices of Bankruptcy.

A party that has initiated bankruptcy proceedings and has obtained an automatic stay pursuant to the United States Bankruptcy Code shall file a Notice of Bankruptcy with the Prothonotary of this Court. The Notice must include: (1) the federal court that entered the stay, including the court's district, if applicable; (2) the federal court case number; (3) the date of entry of the automatic stay; and (4) the Superior Court docket number. The party shall also include federal filings relevant to the stay including, but not limited to, the Notice of Bankruptcy Case Filing issued by the federal court. The parties shall provide written updates to the Court every six months as to the status of the bankruptcy proceedings.

Source

The provisions of this § 65.26 adopted September 12, 2017, effective immediately, 47 Pa.B. 6362; amended September 13, 2018, effective September 13, 2018, 48 Pa.B. 7306. Immediately preceding text appears at serial page (388607).

DECISIONAL PROCEDURES

§ 65.31. Argument Sessions and Submit Panels.

A. Argument sessions shall be held in the cities of Harrisburg, Philadelphia, and Pittsburgh. Special argument sessions may be scheduled in other locations by decision of the President Judge. Argument sessions shall begin at 9:30 a.m. unless otherwise designated.

B. Submit panels shall be governed by § 65.36.

C. The Prothonotary shall give Children's Fast Track and Other Family Fast Track cases priority in listing before argued and submit panels, and may schedule special sessions of the court at any time that the unlisted and eligible number of Children's Fast Track plus Other Family Fast Track cases which cannot be listed before a scheduled argued or submitted panel within thirty days exceeds six in any district.

Source

The provisions of this § 65.31 amended March 16, 2009, effective immediately, 39 Pa.B. 1613. The immediately preceding text appears at serial page (331673).

§ 65.32. Daily List.

A. The Prothonotary shall periodically prepare daily lists of cases for assignment to specific panels of the Court from those cases which are ready for oral argument.

B. A case shall be ready and available for assignment to a daily list on the date on which the appellee's brief is due, regardless of whether the brief has been filed, unless the case has been designated Children's Fast Track or Other Family Fast Track. Cases designated as Children's Fast Track or Other Family Fast Track shall be eligible for listing before an argument panel at the time that the brief for the appellant is filed.

C. The daily list for each panel shall include cases filed in the district in which the panel is scheduled to sit. Ordinarily, cases will be assigned only to a daily list for an argument session which is to be held in the district in which the appeal was filed. The Court, on motion of a party for good cause shown, or on its own motion, may assign cases to a daily list for a panel sitting in a district other than the one in which the appeal was filed.

D. As soon as practical after a case has been assigned to a daily list, the Prothonotary shall notify the parties of the date, time, and location of the argument. Ready cases shall be assigned to a daily list four to six weeks before the scheduled argument date, except in exceptional circumstances upon request of the parties for cause shown and except for expedited matters which may be assigned to a daily list until one (1) week before the argument date.

Source

The provisions of this § 65.32 amended March 16, 2009, effective immediately, 39 Pa.B. 1613. Immediately preceding text appears at serial page (331673).

§ 65.33. Reading of Briefs.

Counsel should prepare for oral argument in a manner consistent with the policy of the Court that judges participating in a panel or en banc argument have read the briefs in advance of oral argument.

§ 65.34. Oral Argument.

A. Except in unusual circumstances, oral argument shall not exceed a total of fifteen (15) minutes for appellant and a total of fifteen (15) minutes for appellee. Where there are two or more appeals from the same order raising different or unrelated issues and in joint appeals, counsel addressing the court for each side shall be allowed ten (10) minutes to present argument. The total time allowed any side shall not exceed thirty (30) minutes. At the discretion of the presiding judge, the amount of time for argument may be increased or decreased.

B. Counsel filing briefs late shall not be permitted to argue but shall be available to answer any questions the Court may ask.

C. Counsel may use exhibits and graphic aids during argument. Copies of all such exhibits must be appended to the presenting party's brief in compliance with the requirements of Pa.R.A.P. 2134. Arrangements must be made by counsel with the Court Crier prior to argument for use of a blackboard or easel.

D. Pro se arguments, except from parties then incarcerated, shall be heard in the same manner and on the same basis as arguments of counsel.

E. The use of laptops, tablets, and phones by attendees at argument sessions, in a non-disruptive manner, is permitted in the courtroom, *except* that they are disallowed for oral communication, photography, or audio- or video-recording purposes.

1. The Court does not provide Internet connectivity.

2. All electronic devices must be on a silent or vibrate mode.

3. Parties presenting oral argument may, without seeking permission of the panel, utilize laptops, tablets, or phones for data, reading, and reference purposes only, so long as usage of the device will not be disruptive to the oral argument.

Source

The provisions of this § 65.34 amended June 14, 2017, effective immediately, 47 Pa.B. 6362. Immediately preceding text appears at serial page (378618).

§ 65.35. Oral Motions.

A. Oral motions raising again an issue previously denied without prejudice must first be re-raised, in writing by refiling the original motion or preserving the issue in the written brief, before the scheduled argument date.

B. When oral motions are considered by the Court at oral argument, or when the Court issues an order sua sponte at oral argument, the presiding judge shall inform the Deputy Prothonotary and shall convey to him/her the substance of an appropriate order. The Deputy Prothonotary will then direct the preparation and docketing of the corresponding written order.

Source

The provisions of this § 65.35 amended June 14, 2017, effective immediately, 47 Pa.B. 6362; amended September 13, 2018, effective September 13, 2018, 48 Pa.B. 7306. Immediately preceding text appears at serial page (388609).

§ 65.36. Submitted Cases.

A. All post-conviction hearing cases shall be submitted on the briefs and record unless otherwise directed by the Court upon its own motion or upon application of a party.

B. On a weekly basis, the Prothonotary shall assign to the next available submit panel cases filed in all three districts which are to be submitted and which are ready to be assigned. A case is ready to be assigned to a submit panel as of the date that appellee's brief is due, regardless of whether the brief has been filed. As submitted cases are assigned to a panel, the briefs and reproduced records shall be sent to the panel. At the same time as the panel receives notification of assignment of a case, the parties shall receive notice that the case has been submitted for consideration on the briefs.

Comment

See Pa.R.A.P. 2311(a) and (b).

Source

The provisions of this § 65.36 amended June 28, 2002, effective June 6, 2002, 32 Pa.B. 3076. Immediately preceding text appears at serial page (279444).

§ 65.37. Non-Precedential Decisions (formerly titled Unpublished Memoranda Decisions).

A. For purposes of these operating procedures, “non-precedential decision” refers to an unpublished, non-precedential, memorandum decision of the Superior Court filed after May 1, 2019. All references to a memorandum decision filed after May 1, 2019, within these operating procedures shall be analogous to “non-precedential decision” for purposes of Pa.R.A.P. 126(b).

Comment

The title to this O.P. was changed to reflect the Amendments enacted by the Supreme Court to Pa.R.A.P. 126, effective May 1, 2019. *See* 278 Appellate Procedural Rules Docket (order amending Pa.R.A.P. 126) (Pa. 2019).

B. Non-precedential decisions filed after May 1, 2019, may be cited for their persuasive value, pursuant to Pa.R.A.P. 126(b). An unpublished memorandum decision filed prior to May 2, 2019, shall not be relied upon or cited by a Court or a party in any other action or proceeding, except that such a memorandum decision may be relied upon or cited (1) when it is relevant under the doctrine of law of the case, res judicata, or collateral estoppel, and (2) when the memorandum is relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding. When an unpublished memorandum filed prior to May 2, 2019, is relied upon pursuant to this rule, a copy of the memorandum must be furnished to the other party and to the Court.

C. After an unpublished memorandum decision has been filed, the panel may sua sponte, or on the motion of any party to the appeal, or on request by the trial judge, convert the memorandum to a published opinion. In the case of a motion of any party to the appeal or a request from the trial judge, such motion or request must be filed with the Prothonotary within 14 days after the entry of the judgment or other order involved. The decision to publish is solely within the discretion of the panel.

Source

The provisions of this § 65.37 amended and effective May 11, 1992, 23 Pa.B. 1939; amended July 7, 2000, effective July 1, 2000, 30 Pa.B. 3429; amended April 20, 2001, effective July 21, 2001, 31 Pa.B. 2108; amended October 10, 2003, effective November 24, 2003, 33 Pa.B. 5075; amended November 20, 2003, effective immediately, 33 Pa.B. 5913; amended April 16, 2019, effective April 16, 2019, 49 Pa.B. 2218. Immediately preceding text appears at serial page (394674).

§ 65.38. Reconsideration, Reargument, and En Banc Review.

A. All applications, motions, or petitions requesting reconsideration of the final decision of a merits panel, shall be recognized as Applications for Reargument pursuant to Pa.R.A.P. 2541 *et seq.*, and shall be subject to all the rules and limitations otherwise applicable to Applications for Reargument.

B. All such applications described in subsection A shall first be submitted to the merits panel that issued the decision in question, *i.e.*, the original merits panel, for consideration by that panel.

C. The members of the merits panel may vote to grant panel reconsideration, grant en banc reargument, or deny any such application.

1. If the merits panel recommends en banc reargument, Central Legal Staff shall circulate the application, motion, or petition, along with any relevant filings, original decision(s), and/or summaries, to the commissioned judges for votes.

2. If a majority of the merits panel does not vote to grant reconsideration, Central Legal Staff shall forward all relevant reconsideration submissions to the commissioned judges as an Application for Reargument before a court en banc.

3. A party's request that the case be reargued before a court en banc shall not foreclose a merits panel's ability to reconsider the decision that prompted the underlying application.

D. Reargument before a court en banc is not a matter of right, but of sound judicial discretion. An Application for Reargument will be denied unless there are compelling reasons therefor. Such reasons include, but are not limited to, the following:

1. It appears that a decision of a merits panel may be inconsistent with a decision of a different panel of the court;

2. It appears that a merits panel may have overlooked relevant precedent, statute, or rule of court;

3. It appears that a merits panel may have overlooked or misapprehended one or more material facts of record;

4. It appears a merits panel relied upon legal authority relevant to the decision that has been reversed, modified, overruled, discredited, or materially altered during the pendency of the appeal; and

5. It appears the issues have potential for a significant impact upon developing law or public policy.

E. Reargument before a court en banc will be granted only if a majority of the commissioned judges of the court vote to grant reargument.

F. The court will not entertain an application, motion, or petition for reconsideration of a decision rendered by a court en banc.

Source

The provisions of this § 65.38 amended and effective May 11, 1992, 23 Pa.B. 1939; amended August 25, 2014, effective August 25, 2014, 44 Pa.B. 6223; amended September 12, 2017, effective immediately, 47 Pa.B. 6362. Immediately preceding text appears at serial page (378620).

§ 65.39. Ancillary Orders Following Merits Panel Decisions.

A. If a timely Application for Reargument is filed, the merits panel shall retain jurisdiction over the appeal until such time as the application is decided.

B. Following a decision by the merits panel, applications, motions, or petitions requesting clarification, award of costs or sanctions, publication pursuant to § 65.37, or extension of time to file an application for reargument, will be referred to the merits panel for review and disposition.

Source

The provisions of this § 65.39 amended September 12, 2017, effective immediately, 47 Pa.B. 6362. Immediately preceding text appears at serial pages (378620) to (378621).

§ 65.40. [Rescinded].**Source**

The provisions of this § 65.40 rescinded and effective April 29, 1992, 23 Pa.B. 1939. Immediately preceding text appears at serial page (149384).

§ 65.41. Argument Before a Court En Banc.

A. When argument before a Court En Banc is granted, the President Judge shall direct the Prothonotary to schedule such argument at the next available session. The judges to hear argument shall be selected by the President Judge. The presiding judge shall be the commissioned judge highest in seniority except when the Court En Banc includes the President Judge, who shall then be the presiding judge.

B. Where en banc argument is limited to one or more but less than all issues raised by an appellant, counsel shall be notified regarding the specific issues on which the Court En Banc desires to hear argument.

C. Before or after argument before the Court En Banc, the Court may vote that en banc consideration was improvidently granted. In such event, the previous panel decision in the matter shall be reinstated or, if there is no previous panel decision in the matter, the case shall be listed before the next available panel of this Court.

D. In the event that a party seeks to remove en banc status and reinstate a panel's decision, such request must be made by motion and is subject to full court review.

E. In the event that a party in another appeal has raised an issue for which the Court has granted Reargument, the Court shall stay such appeal pending the decision of the en banc panel.

F. The Court may decide to stay the case *sua sponte* or upon a motion that a party files.

Source

The provisions of this § 65.41 amended and effective May 30, 1991, 23 Pa.B. 1939; amended June 14, 2017, effective immediately, 47 Pa.B. 6362; amended June 10, 2021, effective immediately, 51 Pa.B. 3441. Immediately preceding text appears at serial pages (403566) to (403567).

§ 65.42. Circulation and Voting in Children’s Fast Track and Other Family Fast Track Appeals.

Notwithstanding any contrary procedures set forth above, panels shall give priority in both circulation of and voting on proposed decisions, first in Children’s Fast Track cases, and then in Other Family Fast Track cases.

Source

The provisions of this § 65.42 adopted March 16, 2009, effective immediately, 39 Pa.B. 1613.

§ 65.43. [Rescinded].

Source

The provisions of this § 65.43 adopted September 15, 2010, effective immediately, 40 Pa.B. 6078; rescinded June 1, 2012, effective immediately, 43 Pa.B. 298. Immediately preceding text appears at serial pages (353591) to (353592).

§ 65.44. Confidentiality Issues.

The names of the parties in a caption for an appeal from a divorce, equitable distribution, custody, visitation or child support decision shall include the full names of the parties if listed as such in the caption of the trial court’s docket. The Court, however, in a custody action upon application of a party and for cause shown, in its discretion may order that the names of the parties listed in the caption be initialized if the Court determines that a child may be identified from the full names of the parties in the caption, pursuant to Pa.R.A.P. 904(b)(2). This rule applies only to the names in the caption and does not apply to the text of a circulation or order of the Court. In such documents, the name of the child shall be initialized or the document shall refer to the child as “Child.”

Source

The provisions of this § 65.44 adopted December 16, 2020, effective January 1, 2021, 51 Pa.B. 11; amended May 24, 2021, effective immediately, 51 Pa.B. 3090. Immediately preceding text appears at serial page (403567).

WIRETAPS

§ 65.51. Introduction.

The procedures for proceedings pursuant to the Wiretapping and Electronic Surveillance Control Act formerly found at this location are now located in Chapter 35 of the Pennsylvania Rules of Appellate Procedure.

Source

The provisions of this § 65.51 rescinded September 15, 2010, effective immediately, 40 Pa.B. 6078; amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; amended November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (388613).

§ 65.52. [Reserved].**Source**

The provisions of this § 65.52 amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (388613).

§ 65.53. [Reserved].**Source**

The provisions of this § 65.53 amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (388613) to (388614).

§ 65.54. [Reserved].**Source**

The provisions of this § 65.54 amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378623).

§ 65.55. [Reserved].**Source**

The provisions of this § 65.55 reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378623).

§ 65.56. [Reserved].**Source**

The provisions of this § 65.56 reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378623).

§ 65.57. [Reserved].**Source**

The provisions of this § 65.57 amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378623) to (378625).

§ 65.58. [Reserved].**Source**

The provisions of this § 65.58 adopted June 28, 1996, effective June 29, 1996, 26 Pa.B. 2985; rescinded June 28, 2002, effective June 6, 2002, 32 Pa.B. 3076; amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378625) to (378626).

§ 65.59. [Reserved].**Source**

The provisions of this § 65.59 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378626).

§ 65.60. [Reserved].**Source**

The provisions of this § 65.60 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378626) to (378628).

§ 65.61. [Reserved].**Source**

The provisions of this § 65.59 adopted August 23, 2002, effective September 3, 2002, 32 Pa.B. 4122; renumbered as § 65.61 and amended June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378628) to (378629).

§ 65.62. [Reserved].**Source**

The provisions of this § 65.62 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378629).

§ 65.63. [Reserved].**Source**

The provisions of this § 65.63 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378629) to (378630).

§ 65.64. [Reserved].**Source**

The provisions of this § 65.64 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378630) to (378631).

§ 65.65. [Reserved].**Source**

The provisions of this § 65.65 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378631) to (378632).

§ 65.66. [Reserved].**Source**

The provisions of this § 65.66 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378632).

§ 65.67. [Reserved].**Source**

The provisions of this § 65.67 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378632).

§ 65.68. [Reserved].**Source**

The provisions of this § 65.68 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378632) to (378633).

§ 65.69. [Reserved].**Source**

The provisions of this § 65.69 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378633).

§ 65.70. [Reserved].**Source**

The provisions of this § 65.70 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378633).

§ 65.71. [Reserved].**Source**

The provisions of this § 65.71 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378633) to (378634).

§ 65.72. [Reserved].**Source**

The provisions of this § 65.72 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378634).

§ 65.73. [Reserved].**Source**

The provisions of this § 65.73 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378634) to (378635).

§ 65.74. [Reserved].**Source**

The provisions of this § 65.74 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378635).

§ 65.75. [Reserved].**Source**

The provisions of this § 65.75 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial pages (378635) to (378636).

§ 65.76. [Reserved].**Source**

The provisions of this § 65.76 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378636).

§ 65.77. [Reserved].**Source**

The provisions of this § 65.77 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378636).

§ 65.78. [Reserved].**Source**

The provisions of this § 65.78 adopted June 10, 2015, effective June 10, 2015, 45 Pa.B. 5906; reserved November 24, 2020, effective immediately, 50 Pa.B. 6994. Immediately preceding text appears at serial page (378636).

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