

**SUPREME COURT OF PENNSYLVANIA
ORPHANS' COURT PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa. O.C. Rule 1.8 & Pa. O.C. Rule 10.1

The Orphans' Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa. O.C. Rule 1.8 and Pa. O.C. Rule 10.1, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court. Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

**Orphans' Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
orphanscourtproceduralrules@pacourts.us**

All communications in reference to the proposal should be received by **April 6, 2018**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Orphans' Court Procedural Rules Committee,

Wayne M. Pecht, Esq.
Chair

**SUPREME COURT OF PENNSYLVANIA
ORPHANS' COURT PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Proposed Amendment of Pa. O.C. Rule 1.8 & Pa. O.C. Rule 10.1

In 2006, when statewide forms for orphans' courts and registers of wills were adopted, the goal was to bring uniformity to then-divergent, local practices. Pa. O.C. Rule 1.3 required that the statewide forms be accepted for orphans' court filings in addition to locally adopted forms. Pa. O.C. Rule 10.1 required that local register forms be "in substantially conformity" with the statewide forms.

In 2015, these rules were rescinded and replaced with Pa. O.C. Rule 1.8 and Pa. O.C. Rule 10.1. The new rules required that the statewide forms be used exclusively and prohibited any other forms allowed or required by local rule.

After the new rules were adopted, the Orphans' Court Procedural Rules Committee received a report from the Real Property, Probate and Trust Law Section of the Pennsylvania Bar Association of some filing offices refusing to accept third-party forms; instead, requiring the use of the statewide forms. This approach reportedly frustrated efforts to complete the necessary forms using estate administration software, which can prepopulate fields from stored data.

The Committee did not intend for Rule 1.8 and Rule 10.1 to displace the use of third-party forms, provided those forms contain the identical content as the statewide forms and present the information in the same order as the statewide forms. The exclusive use of statewide forms was intended to prohibit the promulgation of varying local forms. Non-substantive variations in style and format were not anticipated to cause the rejection of an otherwise compliant form for filing.

Accordingly, the Committee proposes amendments of Rule 1.8 and Rule 10.1 to eliminate non-substantive variations in style and format as the sole basis for rejection of an otherwise compliant filing. The Committee invites all comments, concerns, and suggestions regarding this proposal.

Rule 1.8. Forms

(a) The forms approved by the Supreme Court for statewide practice and procedure before the Registers and courts shall be used exclusively **and accepted for filing** by all Registers and clerks; **provided, however, versions of a Supreme Court-approved form shall be acceptable for filing if identical in content and sequential ordering.** [Where a Supreme Court-approved form exists, no other form shall be allowed or required by local rule or practice.]

(b) The forms approved by the Supreme Court for statewide practice are set forth in an Appendix to these Rules. The forms may be revised and supplemented from time to time. The forms shall also be maintained for public access at the official website of the Administrative Office of Pennsylvania Courts.

(c) A court may require a legal paper to be accompanied by a cover sheet or checklist. A court that imposes such requirements must promulgate a local rule, numbered Local Rule 1.8(c), stating the requirements and setting forth the form of the cover sheet or checklist.

Note: Rule 1.8 is substantively similar to former Rule 1.3, but with some modifications.

Explanatory Comment: [Rule 1.8 has been modified from former Rule 1.3 by now mandating the exclusive use of statewide forms promulgated by the Supreme Court. Previously, forms approved or mandated for use pursuant to local rule could be accepted by the local register and clerk so long as the local register and clerk also permitted and accepted forms promulgated by the Supreme Court. Now, if the Supreme Court has promulgated or approved a form for use before the register or clerk, then such form is the only one that may be used by the applicant or petitioner and is the only one that can be accepted by the local register or clerk.]

The **[mandatory]** statewide forms are set forth in the Appendix attached hereto. The current website for electronic access to the forms is found at www.pacourts.us/forms under the For-the-Public category. The forms posted on the website are capable of on-line completion.

In 2018, Rule 1.8 was revised to permit versions of Supreme Court forms to be accepted for filing provided the replication was identical in content. This revision was intended to permit forms to differ stylistically as to format if content requirements do not differ. This

revision was not intended to permit the re-ordering of content required by a form.

Rule 10.1. Forms

The forms approved by the Supreme Court for statewide practice before the Register as set forth in the Appendix shall be used **exclusively and accepted for filing by all Registers; provided, however, versions of a Supreme Court-approved form shall be acceptable for filing if identical in content and sequential ordering.** [No other forms shall be allowed or required by local rule or practice in such instances.]

Note: Rule 10.1 is new, but is derived from former Rule 10.1.

Explanatory Comment: [Rule 10.1 has been modified from former Rule 10.1 by now mandating the exclusive use of statewide forms promulgated by the Supreme Court.]

In 2018, Rule 10.1 was revised to permit versions of Supreme Court forms to be accepted for filing provided the replication was identical in content. This revision was intended to permit forms to differ stylistically as to format if content requirements do not differ. This revision was not intended to permit the re-ordering of content required by a form. See Rule 1.8.