

# **Internal Operating Procedures of the Supreme Court**

(Revised April 1, 2020)

1. Introduction.
2. Preamble.
3. Decisional Procedures: Argued and Submitted Cases.
4. Opinions.
5. Non-Capital Direct Appeals.
6. Allowance of Appeal.
7. Motions, Miscellaneous Petitions and Applications for Relief.
8. Certification of Questions of Law.
9. Photographing, Recording and Broadcasting of Supreme Court Proceedings by the Pennsylvania Cable Network (“PCN”).
10. Communications to the Court in Pending Cases.
11. Quorum.
12. Suspension of Procedures.
13. Temporary Judicial Assignments to the Supreme Court

## **§ 1. Introduction.**

The Internal 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.

## **§ 2. Preamble.**

- A. In the discharge of judicial duties, every Justice is responsible to the Court.
- B. In its discharge of judicial functions, the Court is the responsibility of every Justice.
- C. All Justices bear an equal responsibility for the proper disposition of every matter before the Court.
- D. The assignment of a given matter to a single Justice is solely for the efficiency of the Court, and neither enhances the power of the assigned Justice nor diminishes the duty of the remaining Justices as to its proper disposition.

In furtherance of the duties expressed in the preamble, the following procedures, which may be amended without notice as circumstances require, have been adopted by the Court:

### § 3. Decisional Procedures: Argued and Submitted Cases.

#### A. Argued Cases

1. *Argument Session Schedule.* Unless otherwise ordered by the Court, argument sessions shall be scheduled for one-week periods during the months of March, April, May, September, October and December. Daily arguments shall begin at 9:30 a.m. unless otherwise designated.
2. *Listing of Cases.* The following cases shall be listed for oral argument upon completion of the briefing schedule or as soon as practicable:
  - a. Direct appeals from a judgment of sentence of death (“capital direct appeals”).
  - b. Cases in which allowance of appeal (“allocatur”) has been granted, unless the Court has ordered that the appeal be submitted on the briefs.
  - c. All other cases that have been designated by the Court as suitable for oral argument, including but not limited to non-capital direct appeals and Post Conviction Relief Act (“PCRA”) appeals.
3. *Assignments.* Each day following oral argument the Court shall meet in conference to discuss the cases argued that day. The Chief Justice shall preside at the conference, lead the Court’s discussion, and call for a tentative vote on the decision of each case. The Justices shall vote in an inverse order of seniority.

Argued cases, except for non-capital direct appeals, shall be assigned at conference by the senior Justice in the majority position in such a manner as to achieve equal distribution of assignments and to avoid delay in deciding cases. If it appears that due to illness of a Justice or for some other reason this purpose is not being served, the Chief Justice may, as a matter of his or her discretion, alter the assignment order.

An argued non-capital direct appeal will be assigned to the Justice who prepared the disposition memorandum, unless after conference vote his or her position is not aligned with that of the majority, in which case the assignment shall be made by the senior member of the majority.

If a Justice to whom a case has been assigned subsequently decides to change his or her position on the proper decision of the case and ceases to be aligned with the conference majority view, he or she shall provide a draft opinion or proposed order along with an explanation of the change of position.

B. Submitted Cases.

When the Court has determined, either upon motion of the parties in advance of oral argument or sua sponte, that a case shall be decided on the submitted briefs, the Prothonotary shall direct the case to the Court for disposition upon completion of the briefing schedule or as soon as practicable. PCRA appeals shall be submitted on the briefs unless otherwise directed by the Court on its own motion or upon application, in accordance with Pa.R.A.P. 2311(b).

The Chief Justice will assign submitted cases in a rotation schedule by seniority, except for non-capital direct appeals, which shall be assigned to the Justice who authored the disposition memorandum. Capital PCRA appeals shall be assigned in a separate rotation, to ensure an even distribution of responsibility in those appeals. If it appears that there is an unequal distribution of cases or a delay in deciding cases, the Chief Justice may, as a matter of his or her discretion, alter the assignment order.

C. Per Curiam Orders.

1. A per curiam order may be issued
  - a. when the Court's decision:
    - (1) does not establish a new rule of law;
    - (2) does not alter, modify, criticize or clarify an existing rule of law;
    - (3) does not apply an established rule of law to a novel fact situation;
    - (4) does not constitute the only binding precedent on a particular point of law;
    - (5) does not involve a legal issue of continuing public interest; or
  - b. whenever the Court decides such an order is appropriate.
2. A per curiam order reversing an order of the lower court must cite to controlling legal authority or provide a full explanation of the reasons for reversal.
3. In cases involving discretionary appeals, the Court may enter a per curiam order dismissing the appeal as improvidently granted.
4. A Justice may request that a per curiam order record that he or she voted for a different disposition.

5. A per curiam order shall indicate if a Justice did not participate in the consideration or decision of the matter.
6. *Reconsideration Applications*
  - a. Assignment. The Prothonotary shall assign applications for reconsideration to the Justice who authored the per curiam order.
  - b. Circulation and Disposition. The assigned Justice shall circulate to all members of the Court a recommended disposition within fourteen (14) days of the assignment or within seven (7) days of the date of assignment in Children’s Fast Track appeals.<sup>1</sup> A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation or seven (7) days in Children’s Fast Track appeals. A vote of the majority is required to grant reconsideration. In any case in which reconsideration is denied, a Justice may request that the order record that he or she voted to grant reconsideration. The order shall indicate if a Justice did not participate in the consideration or decision of the matter.

D. Oral Argument

1. *Guidelines for Oral Argument.*
  - a. No fixed amount of time is reserved for each argument. Oral argument is at the discretion of the Court and proceeds to the extent necessary to answer any questions the Justices may have on the issue(s).
  - b. Since the Court does not use a clock or light system, counsel should be alert to indications from the Chief Justice that the Court is satisfied that all questions have been addressed.
  - c. The Court does not ordinarily permit rebuttal. Counsel are advised not to request rebuttal. However, when necessary and appropriate, the Court may in its discretion request to hear further from counsel.

---

<sup>1</sup> “Children’s Fast Track appeal” is defined in Pa.R.A.P. 102. A “Children’s Fast Track case” is any case involving an order regarding dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. §§ 6301 et seq.; 23 Pa.C.S. §§ 2511 et seq.; 23 Pa.C.S. §§ 2101 et seq.; 23 Pa.C.S. §§ 5321 et seq.; 23 Pa.C.S. §§ 5102 et seq.

- d. The Court is familiar with the cases to be heard at oral argument. Accordingly, counsel should avoid a recitation of the facts and procedural history and focus on the issue(s) to be argued.
  - e. The Court recognizes that oral argument is only one part of appellate advocacy. Counsel for the appellant should be selective in the issues to be argued and may rely on their briefs for the remainder of the issues. Nothing is waived by this process. The appellee's counsel should generally respond only to the issues argued by the appellant's counsel.
  - f. In cases involving multiple parties represented by separate counsel, counsel should strive to avoid repetitive presentations.
  - g. If a party's counsel fails to appear for argument, opposing counsel may be asked to submit the case on the briefs.
  - h. Counsel are advised not to use graphs and charts on easels. Instead, copies of such matters should be provided to the court crier for distribution to the Court. Counsel must also provide advance copies to opposing counsel.
2. *Requests by Amicus Curiae.* In cases where amicus curiae has filed a brief, requests by amicus to present oral argument shall be made by application and will be granted only in extraordinary circumstances. Applications to present oral argument are assigned to the Chief Justice, who will circulate a recommendation to the Court. A vote of the majority is required to grant the request.

#### **§ 4. Opinions.**

##### **A. Circulation Schedule; Voting; Hold; Reassignment.**

- 1. *Preparation of Opinions.* Preparation of opinions and responses to circulating opinions shall be given the highest priority.
  - a. **Majority.** The assigned Justice shall, absent extraordinary circumstances, circulate a proposed majority opinion to all members of the Court within ninety (90) days of the assignment in single-issue cases and serial capital PCRA appeals, within one hundred and twenty (120) days in multiple-issue cases, within one hundred and fifty (150) days in capital direct appeals, within one hundred and eighty (180) days in first capital PCRA appeals, or within forty-five (45) days of the assignment of a Children's Fast

Track appeal. The Court should make every effort to decide cases by clear majority disposition.

- b. Concurrences and Dissents. Justices who are aligned as to the result should collaborate as much as possible to achieve a unified position in responsive opinions. Concurrences and dissents shall be circulated to all members of the Court within forty (40) days of the date on which votes on the proposed majority opinions were due in single-issue cases and serial capital PCRA appeals, within sixty (60) days in multiple-issue cases, within seventy-five (75) days in capital direct appeals, and within ninety (90) days in first capital PCRA cases. Matters may also be held for additional review by a Justice during these time periods. In Children's Fast Track appeals, concurrences and dissents shall be circulated to all members of the Court within twenty (20) days of the date on which votes on the proposed majority opinion were due.
2. *Monthly Vote Lists.* Circulating proposed opinions are voted upon each month according to the schedule provided by the Chief Justice for use in that calendar year. Each monthly vote list shall be circulated by the Chief Justice the first Monday of the month, or, if that date is a holiday, on the first Tuesday of the month; the dates to circulate the vote lists may be adjusted. The cases listed shall include all proposed majority opinions, per curiam opinions and dispositive per curiam orders in appeal cases submitted for the Court's consideration as of ten (10) days prior to the circulation of the vote list. Responsive opinions to majority opinions on a vote list shall be circulated by 5:00 p.m. on the Friday before the vote list is circulated; responsive opinions circulated after that time shall move the case to the next vote list. Responsive opinions to majority opinions not already on a vote list shall be placed on the next available vote list following their circulation to the Court.
3. *Entry of Votes.* Votes on listed cases shall be entered according to the schedule provided by the Chief Justice. Generally speaking, votes are due on the fifth business day following circulation of the vote list. However, that time frame is adjusted to account for holidays, court sessions and other anticipated conflicts. The vote schedule for the calendar year distributed to the Court by the Chief Justice specifies the vote day for each month. Within two (2) business days following entry of the votes, the Chief Justice will circulate to all Justices a disposition, listing the votes for each case. Within two (2) days after circulation of the disposition, the Chief Justice must be advised of any correction. On the next business day (the fifth business day following the entry of votes) the Chief Justice shall circulate to the Court and to the Prothonotary a confidential list of all cases

ready to be filed together with the votes of the Justices. No case will appear on the confidential list unless all votes are recorded. The Prothonotary will docket opinions consistent with the information received.

- a. Permissible votes include “join majority opinion”; “join majority opinion/author concurring opinion”; “author revised majority opinion”; “author concurring opinion”; “author revised concurring opinion”; “hold for concurring opinion”; “join concurring opinion”; “author dissenting opinion”; “author revised dissenting opinion”; “hold for dissenting opinion”; “join dissenting opinion”; “author concurring/dissenting opinion”; “hold for concurring/dissenting opinion”; “join concurring/dissenting opinion”; “hold for further review”; “do not participate”; or “other.” A Justice may also “concur in the result” or “dissent without opinion,” but these options should not be employed if the vote is dispositive.
- b. Telephone Conferences and Administrative Agenda. After receipt of the monthly vote list, any Justice may request that any case be held for telephone conference by making such request in writing or electronically to the Chief Justice with notice to all other Justices. The list will also indicate a date certain on which a telephone conference will be held for any cases so designated. At the request of any Justice, and upon approval by the Chief Justice, cases may be held for discussion to take place at the next scheduled administrative agenda.
- c. Holds. Upon entry of any hold vote, the period required for response shall correspond to the time periods allowed for circulation of concurrences and dissents. A Justice may request additional leeway upon circulation of an internal letter explaining the reasons for the delay and estimating the time for completion of the review or responsive opinion. If the review or responsive opinion is not completed by the designated time, additional status information shall be provided every twenty (20) days thereafter, except when the matter has been placed on hold for another pending case; in that event, the matter shall be resolved upon the resolution of the pending case. Once a matter has been voted upon and the time period initially allowed for circulation of concurrences and dissents has passed, holds upon subsequent listings are strongly discouraged. Held opinions are to be resolved expeditiously. In a Children’s Fast Track appeal, in no event shall circulation of a responsive opinion occur beyond thirty (30) days from the date the vote was initially due.

Upon appropriate notice to a “holding” Justice and an opportunity to respond, the Chief Justice in his or her discretion may direct the filing of an opinion with a “holding” Justice noted as not participating in the decision of the matter, dissenting without opinion, concurring in the result, or with an opinion to follow, as the case may be. In Children’s Fast Track appeals, if, within thirty (30) days of the date votes are due on majority opinions no dissent or concurrence has been placed in circulation, the case will be filed, and the dissenting or concurring Justice will be noted as not having participated in the decision of the matter.

- d. Reassignment. When a concurrence or dissent garners a majority of votes, the author of the proposed majority opinion may withdraw the opinion to revise to accommodate the new majority, or the case shall be reassigned to the author of the concurrence or dissent. Upon reassignment, and absent extraordinary circumstances, the new majority opinion shall be circulated within thirty (30) days in single-issue cases and serial capital PCRA appeals, sixty (60) days in multiple-issue cases, seventy-five (75) days in capital direct appeals, ninety (90) days in first capital PCRA appeals, and, in Children’s Fast Track appeals, within fifteen (15) days.

Notwithstanding any contrary procedures set forth above, Justices shall give priority in both circulation of and voting on proposed opinions in Children’s Fast Track appeals.

## B. Labeling of Opinions.

1. *Majority Opinion.* An opinion will be labeled “Opinion” when a majority joins the rationale and result of the opinion. Majority opinions shall list the composition of the Court hearing the appeal, and shall indicate when a Justice did not participate in the consideration or decision of the matter. Proposed majority opinions that involve multiple, complex issues which the authoring Justice believes may garner disparate votes should be divided into sections. If there is a split in votes in an opinion that has been divided into sections, the authoring Justice will be responsible for preparing a short introductory statement summarizing the resulting votes.
2. *Concurrences and Dissents.* An opinion is a “concurring opinion” when the Justice agrees with the result of the proposed majority opinion. A Justice who agrees with the result of the proposed majority opinion, but does not agree with the rationale supporting the proposed majority opinion, in whole or in part, may write a separate “concurring opinion.” An

opinion is a “dissenting opinion” when the Justice disagrees with the result of the proposed majority opinion.

As a general rule, an opinion is a “concurring and dissenting opinion” when there is more than one issue and the Justice agrees with the majority’s disposition of some but not all issues, and is in disagreement with the mandate. There may be occasions, however, in which a Justice may agree with the outcome but may disagree with a principle enunciated by a majority of the Court which will govern the outcome of other cases. In such instances, Justices are not strictly bound to concur outright; rather, they retain the discretion to label responses as concurring and dissenting.

Alternatively, a Justice may choose to “concur in the result” or “dissent” without writing a separate opinion, although both options are strongly disfavored if the vote is dispositive.

3. *Other designations.* An opinion shall be designated as the “Opinion Announcing the Judgment of the Court” when it reflects only the mandate, and not the rationale, of a majority of Justices. When the votes are equally divided, any resulting opinions shall be designated as the “Opinion in Support of Affirmance” or “Opinion in Support of Reversal,” as the case may be. In all such opinions, the name of any Justice not participating in the consideration or decision of the matter shall be noted.

#### C. Reconsideration Applications

1. *Assignment.* The Prothonotary shall assign applications for reconsideration to the author of the majority opinion or the opinion announcing the judgment of the Court. If the appeal was resolved by an equally divided Court, the petition shall be assigned to the author of the opinion in support of affirmance.
2. *Circulation and Disposition.* The assigned Justice shall circulate to all members of the Court a recommended disposition within fourteen (14) days of the assignment or within seven (7) days of the assignment in Children’s Fast Track appeals. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation or seven (7) days in Children’s Fast Track appeals. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

## § 5. Non-Capital Direct Appeals.

- A. *Assignment.* All non-capital direct appeals shall be reviewed by the Court to determine their suitability for oral argument. As soon as all briefs have been received, the non-capital direct appeal will be assigned by the Prothonotary to a Justice on a rotating basis by seniority for preparation of a disposition memorandum, which will contain a short recitation of the facts, a brief discussion of the issues, and a recommendation as to whether the case should be (1) listed for oral argument; (2) submitted on the briefs; (3) resolved by affirmance on the opinion of the court below, including when necessary a brief statement of matters not covered by that opinion; or (4) resolved by per curiam order.

A per curiam order may be issued

1. when the Court's decision:
  - a. does not establish a new rule of law;
  - b. does not alter, modify, criticize or clarify an existing rule of law;
  - c. does not apply an established rule of law to a novel fact situation;
  - d. does not constitute the only binding precedent on a particular point of law;
  - e. does not involve a legal issue of continuing public interest; or
2. whenever the Court decides such an order is appropriate.

A per curiam order reversing an order of the lower court must cite to controlling legal authority or provide a full explanation of the reasons for reversal.

- B. *Circulation and Disposition.* Each disposition memorandum shall be circulated to the Court within sixty (60) days of assignment. It shall then be placed on a supplemental list for consideration and vote at the same time as opinions. Disposition Memoranda must be circulated to the Court at least ten (10) days prior to circulation of the vote list to be placed on that vote list. A hold for the purpose of preparing a counter-recommendation shall not exceed thirty (30) days; only by vote of the majority may a hold be extended beyond thirty (30) days, but in no event shall a hold exceed ninety (90) days.

The case shall thereafter be resolved in accordance with the vote of the majority. If no clear majority emerges, the case will be listed for oral argument. A Justice

may request that the order record that he or she voted for a different disposition. All orders resolving a non-capital direct appeal shall indicate if a Justice did not participate in the consideration or decision of the matter.

C. Reconsideration Applications.

1. *Assignment.* The Prothonotary shall direct the application for reconsideration to the Justice who prepared and filed the order.
2. *Circulation and Disposition.* The assigned Justice shall circulate to all members of the Court a recommended disposition within fourteen (14) days of the assignment. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

**§ 6. Allowance of Appeal.**

- A. **Assignment.** The Prothonotary shall initially screen petitions for allowance of appeal for compliance with the applicable appellate rules. Untimely petitions may be refused for filing by the Prothonotary without further action of the Court.

Petitions for allowance of appeal shall be assigned to individual Justices by the Prothonotary on a rotating basis by seniority for preparation of an allowance of appeal report. Petitions from the same district presenting the same question shall be consolidated; petitions from different districts that present the same question may be consolidated at the discretion of the Court.

- B. **Circulation and Disposition.** Allowance of appeal reports shall be circulated within ninety (90) days of the receipt of such an assignment. The proposed disposition date shall not be greater than sixty (60) days from the date of circulation. Holds may be placed on petitions for allowance of appeal only upon written notice to the members of the Court as to the reasons for the hold, e.g., the existence of another petition from another district presenting the same question. No hold may be placed on a petition without the existence of a terminus, e.g., the issuance of an opinion on a petition presenting the same question. Where a hold results from the existence of another petition presenting the same issue, the parties shall be notified of the hold and the case that will determine the issue. A hold for the purpose of preparing a counter-report shall not exceed thirty (30) days; only by vote of the majority may a hold be extended

beyond thirty (30) days, but in no event shall a hold for such purpose exceed ninety (90) days.

Notwithstanding any contrary procedures set forth above, allowance of appeal reports in Children's Fast Track appeals are to be circulated within thirty (30) days of the receipt of the assignment, and the proposed disposition date shall not be greater than thirty (30) days from the date of circulation. A hold for purposes of preparing a counter-report in a Children's Fast Track appeal shall not exceed fifteen (15) days; only by vote of the majority may a hold be extended beyond fifteen (15) days, but in no event shall a hold exceed forty-five (45) days.

Upon the affirmative vote of three or more Justices, allowance of appeal will be granted and the case will be listed for oral argument, unless the order indicates that the matter will be submitted on the briefs. An order granting a petition for allowance of appeal shall specify the issues upon which allowance of appeal was granted.

A per curiam order granting allowance of appeal and reversing an order of the lower court must cite to controlling legal authority or provide a full explanation of the reasons for reversal.

A Justice may request that the order resolving the petition for allowance of appeal record that he or she voted for a different disposition. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

### **C. Reconsideration Applications.**

1. *Assignment.* The Prothonotary shall direct applications for reconsideration to the Justice who authored the allowance of appeal report.
2. *Circulation and Disposition.* The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment, or within seven (7) days of the date of assignment in Children's Fast Track appeals. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation, or within seven (7) days of the date of the original recommendation in Children's Fast Track appeals. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

**§ 7. Motions, Miscellaneous Petitions, and Applications for Relief.**

**A. Duties of Prothonotary.** All assignments of motions, miscellaneous petitions and applications for relief, including emergency motions and those requesting the exercise of King's Bench powers, extraordinary jurisdiction and original jurisdiction, shall originate in the Prothonotary's office. No motions, petitions or applications will be considered which were not first filed in the Prothonotary's office and thence assigned. Documents may be filed in paper format, or by electronic or facsimile transmission. Once received, motions, petitions and applications will be monitored by the Prothonotary's office for compliance with applicable appellate rules. Proposed filings that are not in compliance will not be docketed. Proposed filings that are in compliance will be docketed and a response will be allowed. At the expiration of the response period the documents will be forwarded to the Court.

Procedural motions (e.g., requests for extension of time, requests to exceed page limits, and requests to proceed in forma pauperis) may be resolved by the Prothonotary without further action of the Court.

Note: Time periods for responses\*

FILING	RULE	RESPONSE PERIOD
APPLICATION FOR RELIEF (EXTENSIONS)	123	14 DAYS
JURISDICTIONAL STATEMENT	909(b)	14 DAYS
PETITION FOR ALLOWANCE OF APPEAL	1116	14 DAYS
PETITION FOR ALLOWANCE OF APPEAL - CHILDREN'S FAST TRACK CASES	1116(b)	10 DAYS
RECONSIDERATION	1123	NO ANSWER PERMITTED
PETITION FOR PERM. TO APPEAL	1314	14 DAYS
PETITION FOR REVIEW	1516(c)	30 DAYS
N.B. NO ANSWER REQUIRED UNLESS PETITION CONTAINS NOTICE TO PLEAD		
APPLICATION FOR RELEASE (BAIL)	1762	14 DAYS
REARGUMENT	2545	14 DAYS
ORIGINAL PROCESS (e.g., HABEAS, MANDAMUS)	3307	14 DAYS
EXTRAORDINARY RELIEF	3309	14 DAYS

\* MAY BE SHORTER IN STAY OR SUPERSEDEAS APPLICATIONS WHEN CIRCUMSTANCES REQUIRE, OR BY COURT ORDER

**B. Assignment, Circulation and Disposition.** All motions, petitions and applications will be assigned to the Chief Justice, except for emergency motions, motions addressed to a single Justice, and applications for stay of execution in capital cases. In matters assigned to the Chief Justice, the Chief Justice will prepare a memorandum setting forth the positions of the parties and a recommended disposition. Recommendations should be circulated within sixty (60) days from the date the answer is filed or is due to be filed, whichever occurs first, and should contain a proposed disposition date no greater than thirty (30) days from the date of circulation, except in Children's Fast Track cases, in which recommendations shall be circulated within fifteen (15) days from the date the answer is filed or due to be filed, whichever occurs first, and the proposed disposition date shall be no greater than fifteen (15) days from the date of circulation. A vote of the majority is required to implement the proposed disposition.

Every motion, petition or application shall be decided within sixty (60) days, or within thirty (30) days in Children's Fast Track cases. A Justice may request that the order record that he or she voted for a different disposition. Orders disposing of motions, petitions and applications shall indicate if a Justice did not participate in the consideration or decision of the matter.

**C. Emergency Motions.**

1. *Assignment.* On or before the first Monday in January, the Chief Justice shall publish a calendar of duty assignments for the handling of emergency motions. Two Justices will be assigned by the Chief Justice on a monthly rotating basis to review emergency motions for the Eastern and Western Districts. Cases filed in the Middle District will be assigned alternately between the Eastern and Western District duty Justices.
2. *Circulation and Disposition.* Any motion assigned to the duty Justice may at the discretion of that Justice be referred to the full Court for consideration, with or without the entry of an interim order.

**D. Motions Directed to a Single Justice.** A Justice may entertain and may grant or deny any request for relief which may under Pa.R.A.P. 123 or 3315 properly be sought by motion, except that a single Justice may not dismiss or otherwise determine an appeal or other proceeding.

**E. Applications for Stay of Execution in a Capital Case or for Review of an Order Granting or Denying a Stay of Execution.**

1. *Assignment.* The application will be assigned to the duty Justice.

2. *Circulation and Disposition.* The assigned Justice shall promptly circulate a proposed disposition and the application shall be resolved according to the vote of the majority.

**F. Reconsideration Applications.**

1. *Assignment.* The Prothonotary shall direct applications for reconsideration to the Justice who entered the order resolving the application.
2. *Circulation and Disposition.* The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment, within seven (7) days of the date of assignment in Children's Fast Track appeals, or as soon as practicable in emergency and stay of execution matters. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation, within seven (7) days of the date of the original recommendation in Children's Fast Track appeals, or as soon as practicable in emergency and stay of execution matters. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

**§ 8. Certification of Questions of Law.**

- A. Court Limitation.** This Court will accept Certification Petitions from the United States Supreme Court or any United States Court of Appeals.
- B. Assignment, Circulation and Disposition.** The Prothonotary shall refer Certification Petitions to the Chief Justice, who will prepare a memorandum setting forth the positions of the parties and a recommended disposition. Acceptance of certification is a matter of judicial discretion. The Court shall decide whether to accept or decline certification without hearing oral argument. The recommendation should be circulated within thirty (30) days from the date of assignment, and should contain a proposed disposition date no greater than thirty (30) days from the date of circulation. Every Certification Petition should be decided within sixty (60) days. A vote of the majority is required to implement the proposed disposition. A Justice may request that the order record that he or she voted for a different disposition. Orders disposing of Certification Petitions shall indicate if a Justice did not participate in the consideration or decision of the matter.

Upon acceptance of certification by the Court, the Prothonotary shall (1) issue an order accepting certification, which shall specify the questions of law for which

certification was accepted, and whether the case is to be submitted on the briefs or heard at an argument session; (2) establish a briefing schedule; (3) list the matter for oral argument if oral argument has been granted; and (4) take such further action as the Court directs.

**C. Amicus curiae briefs.** After the Court accepts certification, amicus curiae briefs may be submitted without prior leave of Court. Such briefs shall be filed and served in the manner and within the time directed by the Prothonotary.

**D. Reconsideration Applications.**

1. *Assignment.* Upon receipt of an application for reconsideration following an order resolving a Certification Petition, the Prothonotary shall direct the reconsideration application to the Chief Justice for assignment.
2. *Circulation and Disposition.* The assigned Justice shall circulate to the Court a recommended disposition within fourteen (14) days of the date of the assignment. A Justice who disagrees with the recommended disposition shall circulate a counter-recommendation within fourteen (14) days of the original recommendation. A vote of the majority is required to grant reconsideration. In any case in which reconsideration has been denied, a Justice may request that the order record that he or she voted to grant reconsideration. All orders shall indicate if a Justice did not participate in the consideration or decision of the matter.

**§ 9. Photographing, Recording and Broadcasting**

**A. General Provisions**

1. The Supreme Court reserves the right to restrict usage of all sound recordings and visual images taken in Supreme Court Courtrooms. Photographing, recording and broadcasting in those areas are permissible only in accordance with the following provisions.
2. The Executive Administrator of the Supreme Court or his or her designee (“Executive Administrator”) may permit photographing, recording and broadcasting in any Supreme Court Courtroom in his or her discretion. Requests to photograph, record or broadcast sound or images for public or private use in any media, including, but not limited to, printed, online and video form, must be submitted to the Executive Administrator at least three business days before the proposed date of photographing, recording or broadcasting, or within a shorter period as the Executive Administrator may determine. Requests to photograph, record or broadcast during scheduled Supreme Court proceedings will not be entertained.

3. Members of the general public visiting any Supreme Court Courtroom as a permitted guest or a participant in a supervised tour may take photographs or record sound or images for their private, non-profit use, unless otherwise directed by the Executive Administrator. This provision does not authorize photographing, recording or broadcasting during scheduled Supreme Court proceedings.
4. When a Supreme Court Courtroom is being used by an executive or legislative agency, board, commission or similar entity, sections A. 2.-3. shall not affect that entity's policies relating to photographing, broadcasting and recording.

**B. Photographing, Recording and Broadcasting of Supreme Court Proceedings by the Pennsylvania Cable Network (“PCN”).**

1. *General Provisions*

- a. The recording by PCN of a proceeding before the Supreme Court for future broadcast on PCN is permissible only in accordance with this section.
- b. A request to be present to record a scheduled proceeding electronically for future broadcast on PCN must be made at least three business days before the proceeding. Such requests must be submitted to the Executive Administrator for approval by the Chief Justice. The Supreme Court shall maintain discretion to prohibit camera coverage of any proceeding, or any part thereof, due to the nature of the issues or the sensitivity of the subject matter of a proceeding.
- c. There shall be no coverage of a proceeding involving any case that has been designated as “sealed.”
- d. There shall be no audio pickup or broadcast of conferences between co-counsel or among the Justices.
- e. The Supreme Court may limit or terminate coverage, or direct the removal of camera coverage personnel, when necessary to protect the rights of the parties or to assure the orderly conduct of the proceedings.
- f. The Supreme Court shall not incur any expense for equipment, wiring or personnel necessary to provide coverage by PCN.
- g. Introductory commentary, if any, shall be supplied by members in good standing of the Pennsylvania Bar approved by the Supreme Court.

h. All coverage must be “gavel-to-gavel,” including rebroadcasts, with the exceptions in 1. c.-5e

i. All copyrights to the broadcasts are the possession of the Supreme Court and may not be used without its approval. PCN shall provide the Supreme Court with DVD or videotape recordings of all sessions covered by PCN, whether or not broadcast or aired.

j. Broadcasts are not permitted until a minimum of 48 hours after recording.

## 2. *Equipment and Personnel*

a. Only robotic cameras will be permitted in the courtroom. PCN personnel shall consult with the Executive Administrator to determine the location in the courtroom for the camera equipment and operators.

b. Equipment shall not produce distracting sound or light. Signal lights or devices to show when the equipment is operating shall not be visible.

c. Except as otherwise approved by the Executive Administrator, existing courtroom sound and light systems shall be used without modification. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the court facility, or from a camera's built-in microphone. If no technically suitable audio system exists in the court facility, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance by the Executive Administrator.\

d. All equipment must be in place prior to the opening of the court session and shall not be removed until after the conclusion of the day's proceedings. Video recording equipment which is not a component part of a camera shall be located in an area remote from the courtroom. PCN personnel shall not enter or exit the courtroom once the proceedings are in session except during a recess or adjournment. PCN personnel shall wear appropriate attire in the courtroom.

e. PCN personnel shall adhere to the direction of the Executive Administrator in matters such as security, parking, noise avoidance and other related issues.

## 3. *Impermissible Use of Material*

None of the film, videotape, video discs, still photographs or audio reproductions developed during or by virtue of coverage of a proceeding shall be admissible as evidence in the proceeding from which it arose, in any proceeding subsequent or collateral thereto, or upon any appeal of such proceedings.

Revised: 09/2016

**§ 10. Communications to the Court in Pending Cases.**

Whenever any matter is pending before the Court, all communications to the Court from counsel or from a party, if unrepresented, are to be addressed to the Prothonotary's office with copies to all other counsel and unrepresented parties.

**§ 11. Quorum.**

A majority of the Court shall be a quorum of the Court.

**§ 12. Suspension of Procedures.**

Whenever exceptional or emergency conditions require speedy action, or whenever there is other good cause for special action regarding any matter, the operation of these procedures may be suspended by affirmative vote of a majority of the Court.

The Chief Justice may alter any applicable time limit in extraordinary circumstances (e.g., when the Court lacks a full complement of members), or on written request by a Justice stating good cause for the extension and the date by which he or she expects to comply.

**§ 13. Temporary Judicial Assignments to the Supreme Court**

(A) Where a quorum of the Court cannot be assembled to transact the business of the Court, or where extraordinary circumstances warrant appointment of additional Justices, the Chief Justice or senior participating Justice may request temporary judicial assignment(s) to the Court as set forth below.

(B) A request for one or more temporary judicial assignments shall be made in accordance with the affirmative vote of a majority of the Justices voting on that question.

(C) The Court Administrator will select the requested number of temporary judges by random drawing from a pool of all commissioned judges of the Superior Court, or the Commonwealth Court, or both, excluding any judges who previously participated in the matter(s) to be considered by the Court. In the event a judge so selected is unable to serve, the Court Administrator shall select another temporary judge from the pool by random drawing. The Court Administrator will submit the selected names to the Chief Justice or senior participating Justice for appointment to the Court.

(D) This Section supplants Rule of Judicial Administration 701(C)(1) and (2) relative to temporary judicial assignments to the Supreme Court. The balance of the Rules of Judicial Administration continue to pertain, to the extent otherwise applicable.