

**SUPREME COURT OF PENNSYLVANIA  
CRIMINAL PROCEDURAL RULES COMMITTEE  
JUVENILE COURT PROCEDURAL RULES COMMITTEE  
CIVIL PROCEDURAL RULES COMMITTEE  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE  
ORPHANS' COURT PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.Crim.P. 105, Pa.Rs.J.C.P. 121 & 1121, and  
Pa.R.C.P. No. 239 with Rescission of Pa.R.C.P. No. 239.8**

The proposed amendment of Pa.R.Crim.P. 105, Pa.Rs.J.C.P. 121 & 1121, and Pa.R.C.P. No. 239, together with rescission of Pa.R.C.P. No. 239.8, governing local rule adoption processes is being published 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 Committees for the convenience of those using the rules. They neither will constitute a part of the rules nor will 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 Committees invite all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **October 1, 2015**. 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 Committees will acknowledge receipt of all submissions.

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**EXPLANATORY REPORT**

**Proposed Amendment of Pa.R.Crim.P. 105, Pa.Rs.J.C.P. 121 & 1121, and  
Pa.R.C.P. No. 239 with Rescission of Pa.R.C.P. No. 239.8**

The Civil Procedural Rules Committee, the Criminal Procedural Rules Committee, and the Juvenile Court Procedural Rules Committee (Committees) propose the amendment of Pa.R.Crim.P. 105, Pa.Rs.J.C.P. 121 & 1121, and Pa.R.C.P. No. 239, together with rescission of Pa.R.C.P. No. 239.8, to change the local rule adoption processes to require the posting of local rules on courts' or counties' websites rather than on the Unified Judicial System's Web Portal (UJS Portal) website. This recommendation is also joined by the Orphans' Court Procedural Rules Committee as it relates to proposed Pa.O.C. Rule 1.5. Additionally, the Civil Procedural Rules Committee and Domestic Relations Procedural Rules Committee propose expansion of the local civil rule review process to include all rules of civil procedure, including the domestic relations/family court rules.

Currently, various statewide procedural rules governing local rulemaking require committee approval and posting of the local rules on the UJS Portal to become effective. The Committees propose retaining the approval process, but would require posting on the county website instead of the UJS Portal to become effective. To do so, it first must be established that all counties compile and publish local rules on their respective county website.

Presently, there are two websites for local rules. The first site can be found on the Unified Judicial System's website at <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/local-rules-for-common-pleas-and-magisterial-district-courts/>. It is maintained by the Administrative Office of Pennsylvania Courts, which posts local rules as they are published by the Legislative Reference Bureau. This

site is a collection of docket activity of individual local rules grouped by county and date. The data source for this information is the *Pennsylvania Bulletin*.

The second site is on the UJS Portal, which contains local rules posted by the various court administrators pursuant to statewide procedural rules:

<https://ujportal.pacourts.us/LocalRules/RuleSelection.aspx>. The concept of posting local rules on the UJS site was conceived in the 1990s as a means of compiling the rules when technological resources at the county level could not easily do so. Since this effort, 49 of the 67 counties now maintain local rules on their county website.

The Committees propose a procedure whereby each county would maintain a current compilation of local rules on their respective county site. Links to the county websites already exist and would be maintained on the UJS website at <http://www.pacourts.us/courts/courts-of-common-pleas/>. It is believed that this change will promote uniformity among the counties regarding the availability of local rules, offer convenience to users who may intuitively look to the county website for local rules of procedures in that county, and eliminate duplicity with the compilation and maintenance of local rules on both the county and multiple UJS websites.

Additionally, the proposal would require the counties' websites to include all rules of civil procedure, including domestic relations/family court rules. This change would be implemented by amending Pa.R.C.P. No. 239 and it is intended to assure that future local rules are not inconsistent with statewide rules.

Should rulemaking proceed after review of comments, then the two local rule sites currently being maintained by the UJS website would be deactivated. Correlative amendment of Pennsylvania Rule of Judicial Administration No. 103(c) would also be submitted to reflect these proposed amendments.

Specific amendments to individual rules are discussed below.

### **Pennsylvania Rule of Criminal Procedure 105**

Pa.R.Crim.P. 105 governs the procedures for the adoption of local criminal rules. In 2009, Rule 105 was amended to improve this process. One of the Criminal Procedural Rules Committee's main goals in these amendments was to require prior approval by the Committee of any new local rule to ensure that the local rule did not

conflict with the statewide rules. In addition, the amendments included the requirement that approved local rules be posted to the UJS websites described above. This latter requirement was intended to assist practitioners and was not intended to constitute a comprehensive archive of local rules, at least for the present.

Since the time of those amendments, there has been a marked increase in the use of websites administered by the local court of common pleas or county government for posting of local rules. The Committee has concluded that this practice is more efficient, timely, and complete than reliance on centralized websites that remain incomplete.

Therefore, paragraph (F)(2) of Pa.R.Crim.P. 105 would be amended to provide that, contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court would be required to publish a copy of the local rule on “the website of the court or county in which the court has jurisdiction,” rather than on the UJS Portal.

It should be noted that, due to the large number of local criminal rules and the lack of resources to perform a comprehensive review of existing local rules, when the 2009 amendments to Pa.R.Crim.P. 105 were adopted, they required review and uploading only of local rules created or amended since February 1, 2009, the effective date of the amendments. It is intended that the current proposed amendments will require the uploading of all existing local criminal rules to the court or county website. However, local rules existing at the time of the adoption of these amendments would not be required to be submitted to the Committee for approval or re-approval. The current requirement for Committee approval of new local rules or amendments to existing local rules would remain.

### **Pennsylvania Rules of Juvenile Court Procedural 121 and 1121**

The majority of the changes in the Juvenile Court Procedural Rules 121 and 1121 concern a requirement for counties to publish local rules on its court’s or county’s website instead of the UJS Portal.

The Juvenile Court Procedural Rules Committee proposes to eliminate the dates that local rules were vacated in Pa.Rs.J.C.P. 121(B) and 1121(B) and provide a new

*Comment* section labeled “History of Local Rules Vacated and Publication Requirements” to explain this history of local rules. The history explains that when the Rules of Juvenile Court Procedure were originally effective on October 1, 2005 for delinquency matters and on February 1, 2007 for dependency matters, all local rules were vacated. After that time, only a few counties repromulgated some local rules. There was no need for other counties to repromulgate their rules because the new Rules of Juvenile Court Procedure covered the same specific areas of procedure.

Next, the Administrative Office of Pennsylvania Courts began working with juvenile courts across the Commonwealth to use the Common Pleas Case Management System for juvenile court practice. As another part of this statewide automation effort, the Court mandated counties to publish their local rules on the UJS Portal by June 1, 2010 so an attorney could practice in multiple counties and easily find any local procedures in one area. However, as noted *supra*, many practitioners are not utilizing the UJS Portal to find local rules as envisioned, and multiple counties have already established their own courts’ or counties’ websites. Research indicates that the practitioner is going to the local court’s or county’s website to obtain local rules. Therefore, the Juvenile Court Procedural Rules Committee is joining this recommendation to discontinue the posting of local rules on the UJS Portal. Specifically, the Committee proposes modification of Pa.Rs.J.C.P. 121 and 1121 to mandate the posting of local rules on its court’s or county’s website within ninety days of receiving written notification from the Committee. See paragraphs (D) and (F)(1)(b). Contemporaneously with publishing the local rule on its court’s or county’s website and in the *Pennsylvania Bulletin*, the adopting court shall file one certified copy with the Administrative Office of Pennsylvania Courts. See paragraph (G).

### **Pennsylvania Rules of Civil Procedural Nos. 239 and 239.8**

In 2004, the Supreme Court adopted Pa.R.C.P. No. 239.8, which provided for procedures governing the promulgation of local rules for motion practice in each judicial district. This rule was promulgated specifically for the implementation of a statewide website upon which the motions practice rules were made available. The promulgation

of all other local rules of civil procedure continued to be governed by the provisions of Pa.R.C.P. No. 239. As a result, two methods of promulgating local rules were established and this has caused some confusion by the judicial districts as to how to properly promulgate local rules. Consequently, the proposed amendment of Pa.R.C.P. No. 239 and rescission of Pa.R.C.P. No. 239.8 is designed to create to the greatest extent possible one method for promulgating local rules of civil procedure.

Combining aspects of both Pa.R.C.P. Nos. 239 and 239.8, the proposal requires a court promulgating a local rule to (1) obtain approval from the Civil Procedural Rules Committee, or if the local rule pertains to domestic relations procedure, the Domestic Relations Procedural Rules Committee, prior to adoption and publication to ensure that the local rule does not conflict with the statewide Rules of Civil Procedure, (2) publish the local rule in the *Pennsylvania Bulletin*, (3) post the local rule to the local court or county website, and (4) file the local rule in the local prothonotary's office for public inspection and copying. All local rules will become effective 30 days after publication in the *Pennsylvania Bulletin*.

Pa.R.C.P. Nos. 205.2, 205.5, 206.1, 206.4, 208.2, 208.3, 210, 239.9, 1028, 1034, and 1035.2 are proposed to be amended to conform them to the present proposal.

### **Domestic Relations Procedural Rules Committee**

As currently governed by Pa.R.C.P. No. 239, proposed local rules are not subject to prospective review by the Domestic Relations Procedural Rules Committee to determine whether a proposed local rule is inconsistent with a statewide rule. Instead, the Committee retroactively reviews local rules when they are received from the judicial districts. The Committee believes this post-adoption process is both inefficient and ineffective to ensure consistency with the statewide domestic relations procedural rules.

The joint proposal amending the Rules of Civil Procedure would afford the Committee an opportunity to provide guidance to the judicial districts before local rules are promulgated, thereby making for a more efficient rulemaking process and a more consistent statewide family law practice. As noted in the explanation to the amendments to the Rules of Criminal Procedure and Rules of Civil Procedure, the effect

of this proposal would be prospective in nature and would not require judicial districts to submit their current domestic relations local rules for approval, but rather, only local rules proposed after the effective date of the amendments would necessitate the prior approval process contemplated by the jointly proposed amendments.

### **Pennsylvania Orphans' Court Rule 1.5 (Proposed)**

The Orphans' Court Procedural Rules Committee previously proposed Pa.O.C. Rule 1.5 governing local rulemaking. See 43 Pa.B. 2010 (April 13, 2013). This proposed rule was based upon Pa.R.Crim.P. 105. *Id.* Therefore, proposed changes to Pa.R.Crim.P. 105 would similarly be incorporated into proposed Pa.O.C. Rule 1.5, namely, the requirement of publication on the county's website rather than the UJS Portal following Committee approval. As Pa.O.C. Rule 1.5 remains pending, those changes will be incorporated if and when Pa.R.Crim.P. 105 is amended.

\* \* \*

The Committees invite all comments, objections, and suggestions concerning this proposal.

*Pennsylvania Rules of Criminal Procedure*

RULE 105. LOCAL RULES.

(A) For the purpose of this rule, the term "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas, by the Philadelphia Municipal Court, or by the Philadelphia Municipal Court Traffic Division to govern criminal practice and procedure.

(B) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(1) The Criminal Procedural Rules Committee, at any time, may recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

(2) The Criminal Procedural Rules Committee may suspend that local rule pending action by the Court on that recommendation.

(C) Local rules shall be given numbers that are keyed to the number of the general rules to which the local rules correspond.

(D) All proposed local criminal rules and proposed amendments to local criminal rules shall be submitted in writing to the Criminal Procedural Rules Committee for the Committee to review. The adopting court shall not proceed with the proposed local rule or amendments until the adopting court receives written notification from the Committee that the proposed local rule or amendments are not inconsistent with any general rule of the Supreme Court.

(E) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

(1) The adopting court shall not publish the local rule in the *Pennsylvania Bulletin* until it has received the statement from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.

(2) The adopting court shall distribute two certified paper copies of the local rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The adopting court also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette or on a CD-ROM, that complies with the requirements of 1 *Pa.Code* § 13.11(b).



(3) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.

(F) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall:

(1) file one certified copy of the local rule with the Administrative Office of Pennsylvania Courts; and

(2) publish a copy of the local rule on **[the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>] the website of the court or county in which the court has jurisdiction.**

(G) The local rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

(H) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of courts and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in paragraph (G).

(I) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule. No case shall be dismissed nor request for relief granted or denied because of failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the party to comply with the local rule.

COMMENT: The policy of the Supreme Court as declared in the Order promulgating this rule is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of criminal procedure normally preempts the subject covered." In accordance with the Court's policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation shall not determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied the matter is a local rule regardless of what it may be called. The provisions of this rule are also intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

To simplify the use of local rules, local criminal rules are required to be given numbers that are keyed to the number of the general criminal rules to which the local rules correspond. This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general criminal rule.

Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in Rule 105(E) and (F), the adopting court must submit all proposed local criminal rules or rule amendments to the Criminal Procedural Rules Committee for review.

The 2000 and 2008 amendments emphasize that the adopting authority must comply with all the provisions of this rule before any local rule, or any amendments to local rules, will be effective and enforceable.

Paragraph (E) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 *Pa.Code* § 13.11(b)-(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette or CD-ROM must be labeled with the court's name and address and the local rule's computer file name.

Paragraph (G) requires that a separate consolidated set of local rules be maintained in the prothonotary's or clerk's office.

**[The Administrative Office of Pennsylvania Courts maintains a web site containing the texts of local rules**

at:

<http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.

The Administrative Office of Pennsylvania Courts also maintains a web site containing all local criminal rules adopted or amended after February 1, 2009 at:

<http://ujportal.pacourts.us/localrules/ruleselection.aspx>  
.]

**The Administrative Office of Pennsylvania Courts maintains a web page linking to the websites of the courts of common pleas. That web page is located at <http://www.pacourts.us/courts/courts-of-common-pleas/individual-county-courts>. In addition to requiring all new local rules be published on the local court's website, this rule contemplates that a complete and up-to-date set of local rules will be maintained on the local court's website.**

Although under paragraph (E)(3) a local rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The purpose of paragraph (I) is to (1) require that all documents presented for filing are accepted by the clerk of courts, also see Rule 576(A)(3), and (2) prevent the dismissal of cases, or the grant or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph (I) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph (I), the court may impose a sanction for subsequent noncompliance either on counsel or the defendant if proceeding *pro se*, but may not dismiss the case, or grant or deny relief because of non-compliance.

NOTE: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987;

renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; *Comment* revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006; amended January 25, 2008, effective February 1, 2009; amended January 30, 2009, effective February 1, 2009; amended May 7, 2014, effective immediately [.] ; amended \_\_\_\_\_, 2015, effective \_\_\_\_\_, 2015.

\* \* \* \* \*

**COMMITTEE EXPLANATORY REPORTS:**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).**

**Final Report explaining the October 24, 2000 amendments published with the Court's Order at 30 Pa.B. 5742 (November 11, 2000).**

**Final Report explaining the June 8, 2001 Comment revision citing to the AOPC's webpage published with the Court's Order at 31 Pa.B. 3310 (June 23, 2001).**

**Final Report explaining the October 15, 2004 amendment to paragraph (A), and to paragraph (C)(3) concerning the Legislative Reference Bureau publication requirements, published with the Court's Order at 34 Pa.B. 5893 (October 30, 2004).**

**Final Report explaining the September 9, 2005 amendments to paragraph (A) published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).**

**Final Report explaining the January 25, 2008 changes to Rule 105 concerning submission of local rules for review prior to adoption published with the Court's Order at 38 Pa.B. 746 (February 9, 2008).**

**Final Report explaining the January 30, 2009 changes to Rule 105 concerning publication of local rules on the UJS Portal published with the Court's Order at 39 Pa.B. 829 (February 14, 2009).**

**Final Report explaining the May 7, 2014 amendments concerning the transfer of the Philadelphia Traffic Court functions to the Philadelphia Municipal Court published with the Court's Order at 44 Pa.B. ( , 2014).**

**Report explaining the proposed amendments concerning publication of local rules to a local court or county website published for comment at 45 Pa.B. ( , 2015).**

*Pennsylvania Rules of Juvenile Court Procedure*

**RULE 121. LOCAL RULES**

- A. **Definition of Local Rule.** For the purpose of this rule, the term, "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by any [c]Court of [c]Common [p]Pleas to govern juvenile delinquency practice and procedure.
- B. **Vacated Local Rules and Repromulgation.**
- 1) All local rules [promulgated before October 1, 2005]not adopted in accordance with this rule were vacated at the time of the adoption or modification of these Rules.
  - 2) All new local rules not published[ on the Unified Judicial System (UJS) Portal] by [June 1, 2010]the time requirements of paragraph (F)(1)(a) and (b) shall be vacated.
  - 3) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure after submission under paragraph (D).
- C. **Corresponding [n]Numbers.** Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.
- D. **Submission to Committee.**
- 1) All proposed local delinquency rules and proposed amendments to local delinquency rules shall be submitted in writing to the Juvenile Court Procedural Rules Committee for the Committee to review.
  - 2) The adopting court shall not proceed with the proposed local rule or amendment until the adopting court receives written notification from the Committee that the proposed local rule or amendment is not inconsistent with any general rule of the Supreme Court.
- E. **Vacating and Suspending Local Rules.** Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.
- 1) The Juvenile Court Procedural Rules Committee may, at any time, recommend that the Supreme Court suspend, vacate, or require amendment [of]to a local rule.

- 2) The Juvenile Court Procedural Rules Committee may suspend that **inconsistent** local rule pending action by the Court on that recommendation.

F. **Publication of Local Rules.** All local rules shall be published on **[the UJS Portal maintained by the Administrative Office of Pennsylvania Courts]its court's or county's official website** and in the *Pennsylvania Bulletin* to be**come** effective and enforceable.

- 1) The adopting court shall publish every local rule on **[the UJS Portal]its court's or county's official website**.
  - a) *Current Rules.* All current local rules promulgated before **[March 1, 2010](insert adoption date, 2015)** shall be published on **[the UJS Portal]its court's or county's official website** by **[June 1, 2010](insert quarterly effective date, 2016)** to be**come** effective and enforceable.
  - b) *New Rules.* All new local rules that have been submitted to the Committee pursuant to paragraph (D)(1) shall be published on **[the UJS Portal]its court's or county's official website** no later than ninety days after receiving written notification from the Committee under paragraph (D)(2).
  - c) *Vacating Rules.* If local rules are not published by these time requirements, they shall be vacated pursuant to paragraph (B)(2).
- 2) The adopting court shall not publish the local rule **on its court's or county's website and** in the *Pennsylvania Bulletin* until it has received **[the statement]written notification** from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.
- 3) The adopting court shall submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:
  - a) two certified copies of the local rule;
  - b) a copy of the local rule on a computer diskette, CD-ROM, or electronic copy that complies with the requirements of 1 **[Pa.Code]Pa. Code § 13.11(b) - (f)**; and
  - c) a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that the local rule is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure.

- 4) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule on **[the UJS Portal]its court's or county's official website** and in the *Pennsylvania Bulletin*.

G. **Filing [w]With AOPC.** Contemporaneously with publishing the local rule **on the court's or county's official website and** in the *Pennsylvania Bulletin*, the adopting court shall[:

- 1)] file one certified copy of the local rule with the Administrative Office of Pennsylvania Courts[; and
- 2) **publish a copy of the local rule on the UJS Portal at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.**

H. **Public [i]Inspection.**

- 1) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts **and on its court's or county's official website**.
- 2) Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

I. **Mandatory Acceptance of Filing.**

- 1) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule.
- 2) No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule.
- 3) In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide **[a ]**reasonable time for the party to comply with the local rule.

#### COMMENT

The purpose of this rule is to further the policy of the Supreme Court to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of juvenile court procedure normally preempts the subject covered. It is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation is not to determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied, the matter is a local rule regardless of what it may be called. The provisions of this rule also are intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

Paragraph (B)[(1)] vacated all current local rules **[on October 1, 2005, the original effective date of this rule. Paragraph (B)(2) vacated all local rules not published on the UJS Portal by June 1, 2010]not previously compliant with this rule. [The]To become effective and enforceable,** local



rules are to be repromulgated to comply with this rule. This includes rekeying pursuant to paragraph (C) and meeting the appropriate **publication and** filing requirements under paragraphs (F) **&and** (G). **See Infra History of Local Rules Vacated and Publication Requirements.**

To simplify the use of local rules, local juvenile delinquency procedural rules are required to be given numbers that are keyed to the number of the general juvenile delinquency procedural rules to which the local rules correspond pursuant to paragraph (C). This requirement is not intended to apply to local rules that govern the general business of the court and **[which]that** do not correspond to a general juvenile delinquency procedural rule.

Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in paragraphs (F) and (G), the adopting court must submit all proposed local delinquency rules or rule amendments to the Juvenile Court Procedural Rules Committee for review.

The 2008 amendments emphasizedd that the adopting authority is to comply with all the provisions of this rule before any local rule, or any amendment to local rules, will **become** effective and enforceable.

Paragraph (F) requires the local rule to be published on **[the UJS Portal]its court's or county's official website** and in the *Pennsylvania Bulletin* to **become** effective **and enforceable**.

**[Pursuant to the 2010 amendments under paragraph (F)(1), all current local rules are to be published on the UJS Portal by June 1, 2010 to be effective and enforceable. If they are not published by this time, they are vacated and may be repromulgated if the procedures of this Rule are followed. All new local rules promulgated after March 1, 2010 are to be published on the UJS Portal no later than ninety days after receiving written notification from the Committee that the proposed rule or amendment is not inconsistent with any general rule of the Supreme Court of Pennsylvania.]**

Pursuant to 1 **[Pa.Code]Pa. Code** § 13.11(b) - (f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect or in lieu of a diskette or CD-ROM, an electronic copy may be submitted to Legislative Reference Bureau at pabsupreme@palrb.us. The diskette, CD-ROM, or email cover sheet must be labeled with the court's name and address and the local rule's computer file name. In addition, a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, that **states** the local rule is not inconsistent with the Rules of Juvenile Court Procedure is to be submitted.

Pursuant to paragraph (F)(3), an electronic copy is a document sent via email to the *Pennsylvania Bulletin*.

Although under paragraph (F)(4) a local rule is not to **become** effective until at least thirty days after the date of publication **on its court's or county's official website and** in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

**[The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at:  
<http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.]**

Paragraph (H) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The purpose of paragraph (I) is to: 1) require that all documents presented for filing are accepted by the clerk of court, *also see* Rule 345 (A)(2); and 2) prevent the dismissal of cases, or the granting or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph (I) requires that the party be alerted to the local rule, and be given **[a ]reasonable [amount of ]**time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph (I), the court may impose a sanction for subsequent noncompliance either on the attorney or the juvenile if proceeding *pro se*, but may not dismiss the case, or grant or deny relief because of non-compliance.

### **History of Local Rules Vacated and Publication Requirements**

**Pursuant to paragraph (B) on October 1, 2005, the original effective date of this rule, all local juvenile rules were vacated to ensure uniformity of practice across this Commonwealth. After that date, some judicial districts repromulgated their local rules pursuant to paragraph (B)(2). Then, on January 11, 2010, all local rules not published on the UJS Portal by June 1, 2010 were vacated. All local rules published after January 11, 2010 were also vacated if they were not**

published on the UJS Portal within ninety days of receiving written notification from the Committee at the expiration of the ninety-day period. Next, on *(insert adoption date)*, the publication of local rules on the UJS Portal was discontinued and local rules had to be published on its court's or county's official website. All local rules not published on its court's or county's official website by *(insert quarterly effective date, 2016)* were vacated. Prospectively, all local rules not published on its court's or county's official website within ninety days of receiving written notification in accordance with paragraph (D)(2) will be vacated. See also paragraph (F).

## **RULE 1121. LOCAL RULES**

A. **Definition of Local Rule.** For the purpose of this rule, the term, "local rule" shall include every rule, administrative order, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, which is adopted or enforced by any [c]Court of [c]Common [p]Pleas to govern juvenile dependency practice and procedure.

### **B. Vacated Local Rules and Repromulgation.**

- 1) All local rules [promulgated before February 1, 2007]not adopted in accordance with this rule were vacated at the time of the adoption or modification of these Rules.
- 2) All new local rules not published[ on the Unified Judicial System (UJS) Portal] by [June 1, 2010]the time requirements of paragraph (F)(1)(a) and (b) shall be vacated.
- 3) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure after submission under paragraph (D).

C. **Corresponding [n]Numbers.** Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

### **D. Submission to Committee.**

- 1) All proposed local dependency rules and proposed amendments to local dependency rules shall be submitted in writing to the Juvenile Court Procedural Rules Committee for the Committee to review.
- 2) The adopting court shall not proceed with the proposed local rule or amendment until the adopting court receives written notification from the Committee that the proposed local rule or amendment is not inconsistent with any general rule of the Supreme Court.

E. **Vacating and Suspending Local Rules.** Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.

- 1) The Juvenile Court Procedural Rules Committee may, at any time, recommend that the Supreme Court suspend, vacate, or require amendment [of]to a local rule.
- 2) The Juvenile Court Procedural Rules Committee may suspend that inconsistent local rule pending action by the Court on that recommendation.

- F. **Publication of Local Rules.** All local rules shall be published on **[the UJS Portal maintained by the Administrative Office of Pennsylvania Courts]its court's or county's official website** and in the *Pennsylvania Bulletin* to **become** effective and enforceable.
- 1) The adopting court shall publish every local rule on **[the UJS Portal]its court's or county's official website**.
    - a) **[Prior]Current Rules**. All **current** local rules promulgated before **[March 1, 2010](insert adoption date, 2015)** shall be published on **[the UJS Portal]its court's or county's official website** by **[June 1, 2010] (insert quarterly effective date, 2016)** to **become** effective and enforceable.
    - b) **New Rules**. All new local rules that have been submitted to the Committee pursuant to paragraph (D)(1) shall be published on **[the UJS Portal]its court's or county's official website** no later than ninety days after receiving written notification from the Committee under paragraph (D)(2).
    - c) **Vacating Rules**. If local rules are not published by these time requirements, they shall be vacated **pursuant to paragraph (B)(2)**.
  - 2) The adopting court shall not publish the local rule **on its court's or county's website and** in the *Pennsylvania Bulletin* until it has received **[the statement]written notification** from the Committee that the proposed local rule is not inconsistent with any general rule of the Supreme Court.
  - 3) The adopting court shall submit the following items to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*:
    - a) two certified copies of the local rule;
    - b) a copy of the local rule on a computer diskette, CD-ROM, or electronic copy that complies with the requirements of 1 **[Pa.Code]Pa. Code § 13.11(b) - (f)**; and
    - c) a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, providing that the local rule is not inconsistent with the Pennsylvania Rules of Juvenile Court Procedure.
  - 4) The effective date of the local rule shall not be less than 30 days after the date of publication of the rule on **[the UJS Portal]its court's or county's official website** and in the *Pennsylvania Bulletin*.

G. **Filing [w]With AOPC.** Contemporaneously with publishing the local rule **on the court's or county's official website and** in the *Pennsylvania Bulletin*, the adopting court shall[:

- 1)] file one certified copy of the local rule with the Administrative Office of Pennsylvania Courts[; and
- 2) **publish a copy of the local rule on the UJS Portal at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>].**

H. **Public [i]Inspection.**

- 1) The local rules shall be kept continuously available for public inspection and copying in the office of the clerk of courts **and on its court's or county's official website.**
- 2) Upon request and payment of reasonable costs of reproduction and mailing, the clerk shall furnish to any person a copy of any local rule.

I. **Mandatory Acceptance of Filing.**

- 1) No pleading or other legal paper shall be refused for filing by the clerk of courts based on a requirement of a local rule.
- 2) No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule.
- 3) In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide **[a ]**reasonable time for the party to comply with the local rule.

#### COMMENT

The purpose of this rule is to further the policy of the Supreme Court to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of juvenile court procedure normally preempts the subject covered. It is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation is not to determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied, the matter is a local rule regardless of what it may be called. The provisions of this rule also are intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

Paragraph (B)[(1)] vacated all current local rules **[on February 1, 2007, the original effective date of this rule. Paragraph (B)(2) vacated all local rules not published on the UJS Portal by June 1, 2010]not previously compliant with this rule. [The]To become effective and enforceable,** local rules are to be repromulgated to comply with this rule. This includes rekeying pursuant to paragraph (C) and meeting the appropriate **publication and** filing requirements under paragraphs (F) **[&]and** (G). **See Infra History of Local Rules Vacated an Publication Requirements.**

To simplify the use of local rules, local juvenile dependency procedural rules are required to be given numbers that are keyed to the number of the general juvenile dependency procedural rules to

which the local rules correspond pursuant to paragraph (C). This requirement is not intended to apply to local rules that govern the general business of the court and **[which]that** do not correspond to a general juvenile dependency procedural rule.

Paragraph (D), added in 2008, requires that, before publishing the local rule or proceeding with any of the other requirements in paragraphs (F) and (G), the adopting court must submit all proposed local dependency rules or rule amendments to the Juvenile Court Procedural Rules Committee for review.

The 2008 amendments emphasizedd that the adopting authority is to comply with all the provisions of this rule before any local rule, or any amendment to local rules, will be **come** effective and enforceable.

Paragraph (F) requires the local rule to be published on **[the UJS Portal]its court's or county's official website** and in the *Pennsylvania Bulletin* to be **come** effective **and enforceable**.

**[Pursuant to the 2010 amendments under paragraph (F)(1), all current local rules are to be published on the UJS Portal by June 1, 2010 to be effective and enforceable. If they are not published by this time, they are vacated and may be repromulgated if the procedures of this Rule are followed. All new local rules promulgated after March 1, 2010 are to be published on the UJS Portal no later than ninety days after receiving written notification from the Committee that the proposed rule or amendment is not inconsistent with any general rule of the Supreme Court of Pennsylvania.]**

Pursuant to 1 **[Pa.Code]Pa. Code** § 13.11(b) - (f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect or in lieu of a diskette or CD-ROM, an electronic copy may be submitted to Legislative Reference Bureau at pabsupreme@palrb.us. The diskette, CD-ROM, or email cover sheet must be labeled with the court's name and address and the local rule's computer file name. In addition, a copy of the written notification, received from the Juvenile Court Procedural Rules Committee, that **states** the local rule is not inconsistent with the Rules of Juvenile Court Procedure is to be submitted.

Pursuant to paragraph (F)(3), an electronic copy is a document sent via email to the *Pennsylvania Bulletin*.

Although under paragraph (F)(4) a local rule is not to be **come** effective until at least thirty days after the date of publication **on its court's or county's official website and** in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

**[The Administrative Office of Pennsylvania Courts maintains a web-page containing the text of local rules. That web-page is located at: <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.]**

Paragraph (H) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The purpose of paragraph (I) is to: 1) require that all documents presented for filing are accepted by the clerk of court, *also see* Rule 1345 (A)(2); and 2) prevent the dismissal of cases, or the granting or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph (I) requires that the party be alerted to the local rule, and be given **[a ]reasonable [amount of ]**time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph (I), the court may impose a sanction for subsequent noncompliance either on the attorney or the party if unrepresented, but may not dismiss the case, or grant or deny relief because of non-compliance.

### **History of Local Rules Vacated and Publication Requirements**

**Pursuant to paragraph (B) on February 1, 2007, the original effective date of this rule, all local juvenile rules were vacated to ensure uniformity of practice across this Commonwealth. After that date, some judicial districts repromulgated their local rules pursuant to paragraph (B)(2). Then, on January 11, 2010, the Supreme Court issued an order vacating all local rules not published on the UJS Portal by June 1, 2010. All local rules published after January 11, 2010 were also vacated if they were not published on the UJS Portal within ninety days of receiving written notification from the Committee at the expiration of the ninety-day period. Next, on (insert adoption date), the publication of local rules on the UJS Portal was discontinued and local rules**

had to published on its court's or county's official website. All local rules not published on its court's or county's official website by *(insert quarterly effective date, 2016)* were vacated. Prospectively, all local rules not published on its court's or county's official website within ninety days of receiving written notification in accordance with paragraph (D)(2) will be vacated. See also paragraph (F).

*Pennsylvania Rules of Civil Procedure*

**Rule 239. Local Rules**

(a) For the purpose of this rule, the term “local rule” shall include every rule, **administrative order**, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted and enforced by a court of common pleas to govern civil practice and procedure. **This rule shall also apply to any amendment to a local rule.**

Note: The caption or other words used as a label or designation shall not determine whether something is or establishes a local rule; if the definition in subdivision (a) of this rule is satisfied, the matter is a local rule regardless of what it may be called. **[The provisions of this rule are also intended to apply to any amendments to a “local rule.”] A local rule solely addressing filing fees is excluded from this definition.**

(b)(1) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

Note: The policy of the Supreme Court as declared in the Order promulgating this rule is “to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court’s general rules, and to promote the further policy that a general rule of civil procedure normally preempts the subject covered.” In accordance with the Court’s policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

(2) Except as otherwise provided by **[Rule 239.8] Rules 239.1, 239.2, 239.3, 239.4, 239.5, 239.6, 239.7, and 239.9**, local rules which implement general rules shall be given numbers that are keyed to the numbers of the general rules to which the local rules correspond.



**[(c) Except as otherwise provided by Rule 239.8, to be effective and enforceable:**

**(1) A local rule shall be in writing.**

**(2) One certified copy of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.**

**(3) Two certified copies of the local rule and a computer diskette containing the text of the local rule shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.**

**Note: The diskette must (1) be formatted in one of the following formats: MS-DOS, ASCII, Microsoft Word, or WordPerfect, (2) contain the local rule text as reflected in the “hard copy” version of the rule, and (3) be labeled with court’s name and address and computer file name. See 1 Pa. Code § 13.11(b).**

**(4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Civil Procedural Rules Committee, unless the rule relates to domestic relations matters, in which case it shall be filed with the Domestic Relations Procedural Rules Committee.**

**(5) The local rule shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.**

Note: It is contemplated under subdivision (c)(5) that a separate consolidated set of local rules shall be maintained in the prothonotary's or clerk's office.

The Administrative Office of the Pennsylvania Courts maintains a web page containing the texts of local rules. That webpage is located at: <http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>

(6) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of court and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in subdivision (c)(5).]

(c)(1) Except as provided by subdivision (c)(2), the court shall submit a proposed local rule in writing to the Civil Procedural Rules Committee for review. The court shall not promulgate the proposed local rule until the court receives a written statement from the Civil Procedural Rules Committee that the proposed local rule does not conflict with Rules of Civil Procedure.

Note: A proposed local rule should be submitted to the Civil Procedural Rules Committee as an attachment to an e-mail addressed to [civilrules@pacourts.us](mailto:civilrules@pacourts.us).

(2) If a proposed local rule relates to domestic relations matters, the court shall submit the proposed local rule to the Domestic Relations Procedural Rules Committee for review. The court shall not promulgate the proposed local rule until the court receives a written statement from the Domestic Relations Procedural Rules Committee that the proposed local rule does not conflict with the Rules of Civil Procedure.

Note: A proposed local rule governing domestic relations matters should be submitted to the Domestic Procedural Rules Committee as an attachment to an e-mail addressed to [domesticrules@pacourts.us](mailto:domesticrules@pacourts.us).

(d) Upon receipt of the written statement from the Civil Procedural Rules Committee or the Domestic Relations Procedural Rules Committee, the court promulgating a local rule shall:

(1) File one certified copy of the local rule with the Administrative Office of Pennsylvania Courts.

(2) File two certified copies of the local rule and a copy of the local rule on a computer diskette, CD-ROM, or other electronic copy that complies with the requirements of 1 Pa. Code §13.11(b) - (f) with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) Post a copy of the local rule to the website of the court or county in which the court has jurisdiction.

Note: The Administrative Office of the Pennsylvania Courts maintains a web page linking to the websites of the Courts of Common Pleas. This web page is located at <http://www.pacourts.us/courts/courts-of-common-pleas/individual-county-courts>.

It is contemplated under subdivision (d)(3) that a complete and up-to-date set of local rules shall be maintained on the local court's website.

(4) Keep the local rule continuously available for public inspection and copying in the office of the prothonotary or clerk of court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

**Note: It is contemplated under subdivision (c)(4) that a separate consolidated set of local rules shall be maintained in the prothonotary's or clerk's office.**

**[(d)] (e)** [Except as otherwise provided by Rule 239.8, a] **A** local rule shall become effective not less than thirty days after the date of publication of the **local** rule in the Pennsylvania Bulletin.

Note: Although under subdivision **[(d)] (e)** a local rule shall not be effective **[until at least] not less than** thirty days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

**[(e)] (f)** The Civil Procedural Rules Committee **or the Domestic Relations Procedural Rules Committee** may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation.

**[(f)] (g)** No civil action or proceeding shall be dismissed for failure to comply with a local rule.

Note: See Rule of Judicial Administration 1952 governing the duties and authorities of the **[trial court] president judge** in emergency actions. Rule 1952(B)(5) suspends the provisions of this rule during an emergency.

**Rule 239.8. Local Rules. Promulgation. Publication. Effective Date**

**Rescinded.**

**[(a) Local rules required by Rules 239.2, 239.3, 239.5, 239.6 and 239.7 shall be promulgated not later than nine months following the date of the Order of the Supreme Court promulgating this rule.**

**Note: The date of the Order promulgating Rule 239.8 was October 24, 2003. Local requirements under Rules 239.1 through 239.7 are not effective and enforceable unless local rules are published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>). See subdivision (c) of this rule.**

**(b) The court promulgating a local rule or an amendment to a local rule pursuant to Rules 239.1 through 239.7 shall transmit a copy to the Civil Procedural Rules Committee which shall then forward a copy to the Administrative Office of Pennsylvania Courts (AOPC) for publication on the Pennsylvania Judiciary's Web Application Portal.**

**Note: The preferable method of transmission to the Civil Procedural Rules Committee is by attachment to e-mail addressed to [civil.rules@pacourts.us](mailto:civil.rules@pacourts.us).**

**The Committee may, of necessity arising from judicial automation, direct the court promulgating a local rule or amendment to transmit it to the AOPC or take other action to effect publication on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**

**(c) To be effective and enforceable, a local rule or an amendment to a local rule promulgated pursuant to Rules 239.1 through 239.7 shall be**

- (1) numbered in accordance with the requirements of those rules,**
- (2) published on the Pennsylvania Judiciary's Web Application**

**Portal, and**

**Note: The Pennsylvania Judiciary maintains a web page at <http://ujportal.pacourts.us/> containing the texts of local rules promulgated pursuant to Rules 239.1 through 239.7et seq.**

**(3) kept continuously available for public inspection and copying in the office of the prothonotary or clerk of the court promulgating the rule or amendment. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.**

**Note: It is contemplated under subdivision (c)(3) that a separate consolidated set of local rules shall be maintained in the prothonotary or clerk's office. The set of local rules may be in book or electronic form.**

**(d) A local rule or amendment promulgated pursuant to Rules 239.1 through 239.7 shall become effective upon publication on the Pennsylvania Judiciary's Web Application Portal.]**

## **205.2. Filing Legal Papers with the Prothonotary**

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure or judicial administration, including local Rules 205.2(a) and 205.2(b).

Note: Rule 239.1(a) authorizes each court of common pleas to impose requirements governing the physical characteristics of pleadings and other legal papers. Rule 239.1(a) requires each court which has imposed requirements to promulgate a local rule, numbered Local Rule 205.2(a), listing the requirements.

Similarly, Rule 239.1(b) also authorizes each court to require pleadings and other legal papers to be accompanied by a cover sheet. Rule 239.1(b) requires each court which has imposed the requirement to promulgate a local rule, numbered Local Rule 205.2(b), stating the requirement and setting forth the form of the cover sheet.

**[Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**

## **Rule 205.5. Cover Sheet**

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

(i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.

(ii) actions for support, Rules 1910.1 et seq.

(iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.

(iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.

(v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.

(vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

Note: When a defendant in an action before a magisterial district court appeals the decision to the court of common pleas, the plaintiff in the action before the magisterial district court shall complete the cover sheet when filing the complaint with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.



(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

Note: Pa.R.C.P. No. 205.4 provides for electronic filing and service of legal papers. Rule 205.4(h) permits a judicial district which has implemented an electronic filing system to be exempt from the requirements of this rule provided that the information to be gathered by the cover sheet can be captured and transmitted to the Administrative Office of Pennsylvania Courts by the electronic filing system.

Pa.R.C.P. No. 239.9 provides for the promulgation of a local rule, numbered Local Rule 205.4, governing procedures for electronic filing specific to a judicial district.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the web site of the Administrative Office of Pennsylvania Courts at [www.pacourts.us](http://www.pacourts.us).

Note: Cover sheets developed by a judicial district may be used in addition to the cover sheet required by this rule. See Rule 239.1, which requires a court that uses local cover sheets to promulgate a local rule, numbered Local Rule 205.2(b), setting forth the form of cover sheet[, **and Rule 239.8 for the requirements for adopting Local Rule 205.2(b)**].

## **206.1. Petition. Definition. Content. Form**

- (a) As used in this chapter, “petition” means
- (1) an application to strike and/or open a default judgment or a judgment of non pros, and
  - (2) any other application which is designated by local rule, numbered Local Rule 206.1(a), to be governed by Rule 206.1 et seq.

Note: A petition for relief from a judgment by confession is governed by Rule 2959.

Motions are governed by Rule 208.1 et seq.

Rule 206.1(a)(2) authorizes each court of common pleas to designate applications which are to proceed in the manner of a petition under Rule 206.1 et seq. Rule 239.2(a) requires each court which has made that designation to promulgate a local rule, numbered Local Rule 206.1(a), listing the applications to be determined pursuant to Rule 206.1 et seq. **[Any local rule which has been promulgated must be published on the Pennsylvania Judiciary’s Web Application Portal (<http://ujportal.pacourts.us>)]**

(b) A petition shall specify the relief sought and state the material facts which constitute the grounds therefor. All grounds for relief, whether to strike or open a default judgment, shall be asserted in a single petition.

(c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

Note: Petitions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a petition and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

**Rule 206.4. Rule to Show Cause. Alternative Procedures. Exception**

(a)(1) Except as provided by subparagraph (2), a petition shall proceed upon a rule to show cause, the issuance of which shall be discretionary with the court as provided by Rule 206.5 unless the court by local rule adopts the procedure of Rule 206.6 providing for issuance as of course.

Note: See Rule 440 requiring service of the petition upon every other party to the action.

(2) A judgment shall be stricken without the issuance of a rule to show cause when there is a defect on the face of the record that constitutes a ground for striking a default judgment.

(b) The procedure following issuance of the rule to show cause shall be in accordance with Rule 206.7.

Note: Subdivisions (b) through (e) of Rule 239.2 require every court to promulgate Local Rule 206.4(c) describing the court's procedures for the issuance of a rule to show cause. **[Local Rule 206.4(c) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).**

## **Rule 208.2. Motion. Form. Content**

- (a) A motion shall
- (1) contain a caption setting forth the name of the court, the number of the action, the name of the motion, and the name of the moving party,
  - (2) be divided into paragraphs numbered consecutively,
  - (3) set forth material facts constituting grounds for the relief sought, specify the relief sought and include a proposed order,
  - (4) include a certificate of service which sets forth the manner of service including the name of an attorney of record for each party that is represented by counsel, the party whom the attorney represents, a “pro se” designation for each party that is unrepresented, and the address at which service was made, and
  - (5) be signed and endorsed.

Note: Motions are subject to Rule 440 governing service of legal papers other than original process, Rule 1023.1 governing the signing of documents, and Rule 1025 governing the endorsement of legal papers. Any requirements of a court relating to the format of a motion and cover sheet must be set forth in local rules numbered Local Rule 205.2(a) and Local Rule 205.2(b).

- (b) A motion need not be verified unless verification is required by general rule governing the particular motion or by order of court.

Note: Rule 239.3(a) authorizes a court to require that a motion include a brief statement of the applicable authority. Rule 239.3(a) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(c), stating the requirement.

Rule 239.3(b) also authorizes each court to provide a certification requirement for a motion as uncontested. Rule 239.3(b) requires each court which has imposed this requirement to

promulgate a local rule, numbered Local Rule 208.2(d), stating the requirement.

Similarly, Rule 239.3(c) authorizes each court of common pleas to require the moving party in any motion relating to discovery to certify that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. Rule 239.3(c) requires each court which has imposed this requirement to promulgate a local rule, numbered Local Rule 208.2(e), stating the requirement.

**[Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**

### **Rule 208.3. Alternative Procedures**

(a) Except as otherwise provided by subdivision (b), the court shall initially consider a motion without written responses or briefs. For a motion governed by this subdivision, the court may not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties to the proceeding are given an opportunity for an argument.

Note: Rule 208.3(a) does not prevent a court from denying the moving party's request for relief without the opportunity for an argument where the motion is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

Parties may choose to submit responses and briefs at the time of the presentation, provided that copies have been served on every other party. However, parties are not required to do so.

Rule 239.3(d) requires every court to promulgate Local Rule 208.3(a) describing the local court procedure governing motions under this rule. **[Local Rule 208.3(a) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**

(b) A court, by local rule, numbered Local Rule 208.3(b), may impose requirements with respect to motions listed in the rule for the filing of a response, a brief or both. Where a response is required, any party opposing a motion governed by Local Rule 208.3(b) shall file the response within twenty days after service of the motion, unless the time for filing the response is modified by court order or enlarged by local rule.

Note: Motions are governed by the procedure in subdivision (a) unless the court by local rule designates particular types of motions to be governed by the procedure in subdivision (b).

The twenty-day response period may be extended or reduced by special order of court. A local rule may only extend the time period.

A response shall be filed by any party opposing a motion governed by subdivision (b) even if there are no contested issues of fact because the response is the opposing party's method of indicating its opposition.

Rule 208.3(b) authorizes each court of common pleas to impose requirements of responses and briefs with respect to designated motions. Rule 239.3(e) requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 208.3(b), listing the motions and the requirements.

Rule 239.3(e) also provides that Local Rule 208.3(b) must describe the local court procedure governing motions under subdivision (b) and may allow the court to treat the motion as uncontested if a response is not filed.

**[Any local rule promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**

## **Rule 210. Form of Briefs**

Briefs shall be typewritten, printed or otherwise duplicated and endorsed with the name of the case, the court and number and the name, address, and telephone number of the attorney or the party if not represented by an attorney.

Note: Rule 239.4 authorizes each court of common pleas to impose additional requirements governing the form and content of a brief. Rule 239.4 requires each court which has imposed such requirements to promulgate a local rule, numbered Local Rule 210, listing the requirements. **[Any local rule which has been promulgated must be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**



**Rule 239.9. Electronic Filing. Local Rule 205.4**

(a) If a court permits or requires the electronic filing of legal papers with the prothonotary, the court must promulgate a local rule designated Local Rule 205.4 which sets forth in detail the practice and procedure to file a legal paper electronically and includes the matters set forth in this rule.

(b) Local Rule 205.4 shall include the following subdivisions as required by Pa.R.C.P. No. 205.4:

(1) subdivision (a)(1) stating whether the electronic filing system is permissive or mandatory and specifying the actions and proceedings and the legal papers subject to the rule,

(2) subdivision (b)(1) setting forth one or more formats in which legal papers shall be submitted to the prothonotary for filing. The formats shall include portable document format (pdf) and such other electronic format, if any, that the court may designate,

(3) subdivision (c)(2) providing a method of access to the electronic filing website for persons who are not attorneys,

(4) subdivision (d)(1) listing the credit and debit cards approved by the court or the prothonotary, and stating whether the filing fee may be paid by depositing, in advance, sufficient funds with the prothonotary,

(5) subdivision (d)(3) providing the manner of payment when the court has designated a third party to operate the electronic filing system, and

(6) subdivision (f) providing the practice and procedure to govern the matters provided for in Rule 205.4(f).

(c) Local Rule 205.4 may contain such additional subdivisions as the court deems necessary to provide a full and complete description of the electronic filing system.

**[d) Local Rule 205.4 shall be promulgated in accordance with the provisions of Rule 239.8(b) through (d).]**

## **Rule 1028. Preliminary Objections**

(a) Preliminary objections may be filed by any party to any pleading and are limited to the following grounds:

(1) lack of jurisdiction over the subject matter of the action or the person of the defendant, improper venue or improper form or service of a writ of summons or a complaint:

Note: Of the three grounds available to challenge venue, only improper venue may be raised by preliminary objection as provided by Rule 1006(e). Forum non conveniens and inability to hold a fair and impartial trial are raised by petition as provided by Rule 1006(d)(1) and (2).

See Rule of Appellate Procedure 311(b) for interlocutory appeals as of right from orders sustaining jurisdiction and venue.

(2) failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter;

(3) insufficient specificity in a pleading;

(4) legal insufficiency of a pleading (demurrer);

Note: The defense of the bar of a statute of frauds or statute of limitations can be asserted only in a responsive pleading as new matter under Rule 1030.

(5) lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;

(6) pendency of a prior action or agreement for alternative dispute resolution;

Note: An agreement to arbitrate may be asserted by preliminary objection or by petition to compel arbitration pursuant to the Uniform Arbitration Act, 42 Pa.C.S. § 7304, or the common law, 42 Pa.C.S. § 7342(a).

(7) failure to exercise or exhaust a statutory remedy, and

(8) full, complete and adequate non-statutory remedy at law.

(b) All preliminary objections shall be raised at one time. They shall state specifically the grounds relied upon and may be inconsistent. Two or more preliminary objections may be raised in one pleading.

(c)(1) A party may file an amended pleading as of course within twenty days after service of a copy of preliminary objections. If a party has filed an amended pleading as of course, the preliminary objections to the original pleading shall be deemed moot.

(2) The court shall determine promptly all preliminary objections. If an issue of fact is raised, the court shall consider evidence by depositions or otherwise.

Note: Preliminary objections raising an issue under subdivision (a)(1), (5), (6), (7) or (8) cannot be determined from facts of record. In such a case, the preliminary objections must be endorsed with a notice to plead or no response will be required under Rule 1029(d).

However, preliminary objections raising an issue under subdivision (a)(2), (3) or (4) may be determined from facts of record so that further evidence is not required.

Rule 239.5 requires every court to promulgate Local Rule 1028(c) describing the local court procedure governing preliminary objections. **[Local Rule 1028(c) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**

(d) If the preliminary objections are overruled, the objecting party shall have the right to plead over within twenty days after notice of the order or within such other time as the court shall fix.

(e) If the filing of an amendment, an amended pleading or a new pleading is allowed or required, it shall be filed within twenty days after notice of the order or within such other time as the court shall fix.

(f) Objections to any amended pleading shall be made by filing new preliminary objections.

**Rule 1034. Motion for Judgment on the Pleadings**

(a) After the relevant pleadings are closed, but within such time as not to unreasonably delay the trial, any party may move for judgment on the pleadings.

Note: Only the pleadings between the parties to the motion for judgment on the pleadings must be closed prior to filing the motion.

Rule 239.6 requires every court to promulgate Local Rule 1034(a) describing the local court procedure governing motions for judgment on the pleadings. **[Local Rule 1034(a) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**

(b) The court shall enter such judgment or order as shall be proper on the pleadings.

## **Rule 1035.2. Motion**

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Note: Rule 1035.2 sets forth the general principle that a motion for summary judgment is based on an evidentiary record which entitles the moving party to judgment as a matter of law.

The evidentiary record may be one of two types. Under subparagraph (1), the record shows that the material facts are undisputed and, therefore, there is no issue to be submitted to a jury.

An example of a motion under subparagraph (1) is a motion supported by a record containing an admission. By virtue of the admission, no issue of fact could be established by further discovery or expert report.

Under subparagraph (2), the record contains insufficient evidence of facts to make out a prima facie cause of action or defense and, therefore, there is no issue to be submitted to a jury. The motion in this instance is made by a party who does not have the burden of proof at trial and who does not have access to the evidence to make a record which affirmatively supports the motion. To defeat this motion, the adverse party must come forth with evidence showing the existence of the facts essential to the cause of action or defense.

Oral testimony alone, either through testimonial affidavits or depositions, of the moving party or the moving party's witnesses, even if uncontradicted, is generally insufficient to establish the absence of a genuine issue of material fact. See *Nanty-Glo v. American Surety Co.*, [309 Pa. 236,] 163 A. 523 (Pa. 1932); *Penn Center House, Inc. v. Hoffman*, [520 Pa. 171,] 553 A.2d 900 (Pa. 1989).

Only the pleadings between the parties to the motion for summary judgment must be closed prior to filing the motion.

In asbestos litigation, a motion for summary judgment filed by one defendant alleging a ground common to one or more other defendants is deemed filed on behalf of all such defendants. See Rule 1041.1(f).

Partial summary judgment, interlocutory in character, may be rendered on one or more issues of liability, defense or damages.

Rule 239.7 requires every court to promulgate Local Rule 1035.2(a) describing the local court procedure governing motions for summary judgment. **[Local Rule 1035.2(a) shall be published on the Pennsylvania Judiciary's Web Application Portal (<http://ujportal.pacourts.us>).]**