THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 2]

Proposed Amendments of Pa.Rs.Crim.P. 229 and 230

The Criminal Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Rules 229 (Control of Investigating Grand Jury Transcript/Evidence) and 230 (Disclosure of Testimony Before Investigating Grand Jury) for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

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

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
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All communications in reference to the proposal should be received by no later than Friday, September 15, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee

CHARLES A. EHRLICH,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 2. INVESTIGATIONS

PART B(1). Investigating Grand Juries

Rule 229. Control of Investigating Grand Jury Transcript/Evidence.

Except as otherwise set forth in these rules, the **[court] supervising judge of the grand jury** shall control the original and all copies of the transcript and shall maintain their secrecy. When physical evidence is presented before the investigating grand jury, the **[court] supervising judge of the grand jury** shall establish procedures for supervising custody.

Comment

This rule requires that the **[court] supervising judge of the grand jury** retain control over the transcript of the investigating grand jury proceedings and all copies thereof, as the record is transcribed, until such time as the transcript is released as provided in these rules.

[Reference to the court in this rule and in Rule 230 is intended to be to the supervising judge of the grand jury.]

***Official Note*: Rule 261 adopted June 26, 1978, effective January 9, 1979; Comment revised October 22, 1981, effective January 1, 1982; renumbered Rule 229 and amended March 1, 2000, effective April 1, 2001; amended , 2017, effective , 2017.**

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. 1477 (March 18, 2000).

Report explaining the proposed amendment to clarify the terminology of the supervising authority published for comment at 47 Pa.B. 3959 (July 22, 2017).

Rule 230. Disclosure of Testimony Before Investigating Grand Jury.

(A) Attorney for the Commonwealth:

Upon receipt of the certified transcript of the proceedings before the investigating grand jury, the **[court] supervising judge of the grand jury** shall furnish a copy of the transcript to the attorney for the Commonwealth for use in the performance of official duties.

(B) Defendant in a Criminal Case:

(1) When a defendant in a criminal case has testified before an investigating grand jury concerning the subject matter of the charges against him or her, upon application of such defendant the **[court] supervising judge of the grand jury** shall order that the defendant be furnished with a copy of the transcript of such testimony.

(2) When a witness in a criminal case has previously testified before an investigating grand jury concerning the subject matter of the charges against the defendant, upon application of such defendant the **[court] supervising judge of the grand jury** shall order that the defendant be furnished with a copy of the transcript of such testimony; however, such testimony may be made available only after the direct testimony of that witness at trial**, unless the parties agree, with the approval of the supervising judge of the grand jury, that an earlier disclosure is in the interests of justice**.

(3) Upon appropriate motion of a defendant in a criminal case, the **[court] supervising judge of the grand jury** shall order that the transcript of any testimony before an investigating grand jury that is exculpatory to the defendant, or any physical evidence presented to the grand jury that is exculpatory to the defendant, be made available to such defendant.

(C) Other Disclosures:

Upon appropriate motion, and after a hearing into relevancy, the **[court] supervising judge of the grand jury** may order that a transcript of testimony before an investigating grand jury, or physical evidence before the investigating grand jury, may be released to

another investigative agency, under such other conditions as the **[court] supervising judge of the grand jury** may impose.

Comment

It is intended that the "official duties" of the attorney for the Commonwealth may include reviewing investigating grand jury testimony with a prospective witness in a criminal case stemming from the investigation, when such testimony relates to the subject matter of the criminal case. It is not intended that a copy of such testimony be released to the prospective witness.

Paragraph (B)(2) was amended in 2017 to recognize a common practice of the parties coming to an agreement on the disclosure of a trial witness' prior grand jury testimony at a point earlier than cross-examination. This practice should be encouraged where it is utilized to avoid undue trial delay.

Subparagraph (B)(3) is intended to reflect the line of cases beginning with *Brady v. Maryland*, 373 U.S. 83 (1963), and the refinements of the *Brady* standards embodied in subsequent judicial decisions.

***Official Note*: Rule 263 adopted June 26, 1978, effective January 9, 1979; renumbered Rule 230 and amended March 1, 2000, effective April 1, 2001; amended September 21, 2012, effective November 1, 2012; amended , 2017, effective , 2017.**

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 September 21, 2012 correction of a typographical error in paragraph (B)(1) published with the Court's Order at 42 Pa.B. 6251 (October 6, 2012).

Report explaining the proposed amendment regarding disclosure of testimony published for comment at 47 Pa.B. 3959 (July 22, 2017).

REPORT

Proposed Amendment of Pa.Rs.Crim.P. 229 and 230

Disclosure of Investigating Grand Jury Testimony

As part of the Committee's ongoing supervision of the rules, the Committee recently examined investigating grand juries procedures, particularly with regard to the disclosure of evidence adduced before an investigating grand jury. Of particular concern was Rule 230(B)(2) that provides, when a witness who is testifying in a criminal case and who has previously testified before an investigating grand jury, the testimony of that witness shall be made available upon application by the defendant but only after the direct testimony of the witness.[1] The suggestion was made that the rule should permit an earlier disclosure. The argument in favor of earlier disclosure was that providing the grand jury testimony only after direct testimony at trial often results in a delay in trial to allow for the study of the grand jury testimony before cross-examination can be conducted.

As an initial matter, the Committee discussed the question of who held the authority to make disclosure determinations. The Committee agreed that this power is vested solely in the judge supervising the investigating grand jury. This would be clarified in Rules 229 and 230 by replacing references in those rules to "the court" with the term "supervising judge." The proposal also would remove Rule 229 Comment language containing this definition as unnecessary.

Regarding the time limitation on disclosure, the Committee examined some of the limited case law regarding this provision. The Pennsylvania Supreme Court upheld the Rule 230(B)(2) limitation on disclosure in *Commonwealth v. Chamberlain*, 30 A.3d 381, 424 (Pa. 2011). In *Chamberlain*, the Court rejected a claim that the testimony of grand jury witnesses should have been turned over to the defense prior to trial in the interests of justice, holding that Rule 230(B)(2) is clear and that the defendant was not entitled to an earlier disclosure. The Committee also examined *Commonwealth v. Hemmingway*, 13 A.3d 491 (Pa. Super. 2011) in which the Pennsylvania Superior Court held that the Commonwealth could agree to disclose grand jury testimony as part of a pretrial discovery agreement.

The Committee considered a proposal that would have permitted the supervising judge the discretion to order disclosure of the grand jury testimony of a witness who will testify at trial earlier than the conclusion of direct examination. However, there was a concern such a provision would negatively affect investigating grand jury secrecy and the Committee could not agree on how to define what potential witnesses could be subject to such a disclosure. Some members argued that no rule change should be made since the current practice is for the prosecution to turn over the material earlier to avoid delay in trial. As a compromise, it was suggested that the rules should recognize an agreement among the parties for an earlier disclosure. This would be consistent with the holding in *Hemmingway*, *supra*.

The proposed rule changes would add the phrase "unless the parties agree, with approval of the supervising judge of the grand jury, that an earlier disclosure is in the interests of justice" be added to Rule 230(B)(2). Also, language would be added to the Comment to further explain that the practice of agreeing to early disclosure.

[Pa.B. Doc. No. 17-1200. Filed for public inspection July 21, 2017, 9:00 a.m.]

[1] Paragraphs (B)(1), providing for the disclosure of grand jury testimony by the defendant, and (B)(3), providing for the disclosure of grand jury testimony that is exculpatory to the defendant, do not contain the time limitation of paragraph (B)(2).

[234 PA. CODE CH. 4]

Proposed Revision of the Comment to Pa.R.Crim.P. 460 and Proposed Amendment of Pa.R.Crim.P. 462

The Criminal Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Rule 462 (Trial *De Novo*) and the revision of the Comment to Rule 462 (Notice of Appeal) for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

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

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
fax: (717) 231-9521
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All communications in reference to the proposal should be received by no later than Friday, September 15, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee

CHARLES A. EHRLICH,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART F. Procedures in Summary Cases for Appealing to Court of Common Pleas for Trial *De Novo*

Rule 460. Notice of Appeal.

* * * * *

Comment

* * * * *

Rule 462(D) provides for the dismissal of an appeal when the defendant fails to appear for the trial *de novo*.

***See* Rule 462(F) regarding the retention of a case at the court of common pleas when a petition to file an appeal *nunc pro tunc* has been denied.**

Certiorari was abolished by the Criminal Rules in 1973 pursuant to Article V Schedule Section 26 of the Constitution of Pennsylvania, which specifically empowers the Supreme Court of Pennsylvania to do so by rule. This Schedule section is still viable, and the substance of this Schedule section has also been included in the Judicial Code, 42 Pa.C.S. § 934. The abolition of *certiorari* continues with this rule.

***Official Note*: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; amended March 3, 2000, effective July 1, 2000; rescinded March 1, 2000, effective April 1, 2001, and paragraphs (A), (D), (E), (F), (H), and (I) replaced by Rule 460. New Rule 460 adopted March 1, 2000, effective April 1, 2001; amended February 6, 2003, effective July 1, 2003; Comment revised February 28, 2003, effective July 1, 2003; Comment revised , 2017, effective , 2017**.

Committee Explanatory Reports:

* * * * *

Final Report explaining the February 28, 2003 Comment revision cross-referencing Rule 461 published with the Court's Order at 33 Pa.B. 1326 (March 15, 2003).

Report explaining the proposed Comment revision cross-referencing Rule 462(F) published for comment at 47 Pa.B. 3961 (July 22, 2017).

Rule 462. Trial *De Novo*.

* * * * *

(E) If the defendant withdraws the appeal, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

(F) If the defendant has petitioned the trial judge to permit the taking of an appeal *nunc pro tunc* and this petition is denied, the trial judge shall enter judgment in the court of common pleas on the judgment of the issuing authority.

[(F)] (G) The verdict and sentence, if any, shall be announced in open court immediately upon the conclusion of the trial, or, in cases in which the defendant may be sentenced to intermediate punishment, the trial judge may delay the proceedings pending confirmation of the defendant's eligibility for intermediate punishment.

[(G)] (H) At the time of sentencing, the trial judge shall:

* * * * *

[(H)] (I) After sentence is imposed by the trial judge, the case shall remain in the court of common pleas for the execution of sentence, including the collection of any fine and restitution, and for the collection of any costs.

Comment

* * * * *

The procedures for conducting the trial *de novo* in the court of common pleas set forth in paragraphs (B), **[(F), and]** (G) **and (H)** are comparable to the summary case trial procedures in Rule 454 (Trial in Summary Cases).

Pursuant to paragraph (B), the decision whether to appear and assume control of the prosecution of the trial *de novo* is solely within the discretion of the attorney for the Commonwealth. When no attorney appears at the trial *de novo* on behalf of the Commonwealth or a municipality, the trial judge may ask questions of any witness who testifies, and the affiant may request the trial judge to ask specific questions. In the appropriate circumstances, the trial judge also may permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the trial judge.

The provisions of paragraph (C) that permit the court to continue the case if there is good cause for the officer's unavailability were added in response to *Commonwealth v. Hightower*, 652 A.2d 873 (Pa. Super. 1995).

Paragraph (D) makes it clear that the trial judge may dismiss a summary case appeal when the judge determines that the defendant is absent without cause from the trial *de novo*. If the appeal is dismissed, the trial judge should enter judgment and order execution of any sentence imposed by the issuing authority.

New paragraph (F) was added in 2017 to clarify that a case in which a defendant seeks to file an appeal *nunc pro tunc,* and the common pleas judge denies that petition, the case will remain at the court of common pleas. This is consistent with the long-standing policy under the rules that once a case has moved from the minor judiciary to the court of common pleas, the case remains at common pleas.

Paragraph **[(F)] (G)** was amended in 2008 to permit a trial judge to delay imposition of sentence in order to investigate a defendant's eligibility for intermediate punishment for certain offenses, including summary violations of 75 Pa.C.S. § 1543(b) (driving while license is under a DUI-related suspension), but only if he or she meets certain eligibility requirements, such as undergoing a drug and alcohol assessment. Potentially this information may not be available to the trial judge following a trial *de novo* at the time of sentencing.

Pursuant to paragraph **[(G)] (H)**, if the defendant is convicted, the trial judge must impose sentence, and advise the defendant of the payment schedule, if any, and the defendant's appeal rights. *See* Rule 704(A)(3) and Rule 720(D). No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. *See Alabama v. Shelton*, 535 U.S. 654 (2002), *Scott v. Illinois*, 440 U.S. 367 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25 (1972).

Certain costs are mandatory and must be imposed. *See, e.g.*, Section 1101 of the Crime Victims Act, 18 P.S. § 11.1101.

Once sentence is imposed, paragraph **[(H)] (I)** makes it clear that the case is to remain in the court of common pleas for execution of the sentence and collection of any costs, and the case may not be returned to the magisterial district judge. The execution of sentence includes the collection of any fines and restitution.

For the procedures concerning sentences that include restitution in court cases, see Rule 705.1.

For the procedures for appeals from the Philadelphia Municipal Court Traffic Division, see Rule 1037.

***Official Note*: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004; amended January 18, 2007, effective August 1, 2007; amended December 16, 2008, effective February 1, 2009; Comment revised October 16, 2009, effective February 1, 2010; Comment revised May 7, 2014, effective immediately; amended March 9, 2016, effective July 1, 2016; amended , 2017, effective , 2017**.

Committee Explanatory Reports:

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Final Report explaining the March 9, 2016 amendments to paragraph (G) concerning required elements of the sentence published with the Court's Order at 46 Pa.B. 1540 (March 26, 2016).

Report explaining the proposed amendments regarding appeals *nunc pro tunc* published for comment at 47 Pa.B. 3961 (July 22, 2017).

REPORT

Proposed Amendment of Pa.R.Crim.P. 462; Proposed Revision of the Comment to Pa.R.Crim.P. 460

Summary Appeal Remand

The Committee recently examined an issue that has come up occasionally regarding the Court's "no-remand" policy in summary cases. The scenario is that a defendant is convicted of a summary offense before a magisterial district judge (MDJ) and then files a petition to be allowed to file a summary appeal *nunc pro tunc*. The common pleas court denies the petition and orders that the case be "remanded" back to the MDJ office. The common pleas judge in these situations has taken the position that, because the common pleas court has never addressed the actual appeal, the case is not subject to the "no remand" provisions of Rule 462(H).

Under Rule 460(D), when an appeal is filed in a summary case, the case and associated documents are transferred from the MDJ to the clerk of courts and then adjudicated by a common pleas judge. Paragraph (H) of Rule 462 states:

> (H) After sentence is imposed by the trial judge, the case shall remain in the court of common pleas for the execution of sentence, including the collection of any fine and restitution, and for the collection of any costs.

This provision is one part of the Court's long-standing "no remands" policy. It has been the Court's position that once a case "goes up" from the minor judiciary to the court of common pleas, it should stay at common pleas. This policy has been articulated in rule changes that were adopted in 2003 (clarifying when an appeal for a trial *de novo* in a summary case or a contempt adjudication is taken, the case remains in the court of common pleas for the execution of any sentence and collection of any fines and restitution, and collection of any costs), in 2006 (clarifying the procedures for handling cases in which a summary offense is joined with misdemeanor, felony, or murder charges both when the case is before the issuing authority and after the case is held for court), and in 2010 (addressing three areas in which remands from the court of common pleas to the issuing authority still are occurring despite the Court's policy that prohibits such remands: (1) the practice of remanding cases for a preliminary hearing where a defendant who was designated as "NEI" is apprehended; (2) use of remands as remedies for a waived preliminary hearing; and (3) the practice of remanding cases without court involvement when the district attorney withdraws felony/misdemeanor prior to the filing of the information).[1]

Additionally, in 2006, then-Chief Justice Cappy sent a letter to all President Judges reiterating the "no remand"

[1] *See* 33 Pa.B. 1324 (March 15, 2003), 36 Pa.B. 1385 (March 25, 2006), and 40 Pa.B. 1068 (February 27, 2010).

policy and how it applied specifically to summary appeals. In that letter, Chief Justice Cappy noted that Rule 462 contains paragraph (D), which provides that the case is retained at common pleas if a defendant fails to appear for the trial *de novo* and the MDJ sentence is entered at common pleas and paragraph (E), which provides similarly when the defendant withdraws the appeal. As noted above, paragraph (H) provides that when a sentence has been entered by the common pleas judge, it remains at common pleas for execution of sentence. The rationale for this policy is to prevent cases from "bouncing back and forth" between the MDJ and common pleas courts. This could result in confusion and the potential repeated transfer of court records and case-associated money.

None of these pronouncements by the Court addressed the situation of the dismissal of a late filed summary appeal. The Committee examined the above history of the no-remand policy and concluded that the underlying rationale of the policy would be applicable to the situation at issue. Since the common pleas court must make a decision on the petition, the case is transferred from the MDJ to the common pleas court. The same concerns about transferring the case record and money are present here as in other summary appeal situations. Additionally, the Committee noted the instances mentioned above where a case in which a full trial *de novo* has not been held, such as when a defendant fails to appear for the trial, still is retained at the common pleas court.

Therefore, a new paragraph (F) would be added to Rule 462 that would state specifically that a late-filed appeal adjudicated at common pleas court would remain at common pleas court. Additionally, a cross-reference to this new provision would be added to the Comment to Rule 460 since that rule provides the procedures for filing appeals, including time limitations.

[Pa.B. Doc. No. 17-1201. Filed for public inspection July 21, 2017, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 11, 12, 13, 14, 15 AND 16]

Proposed Adoption of Pa.R.J.C.P. 1205; Proposed Amendment of Pa.R.J.C.P. 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608 and 1609

The Juvenile Court Procedural Rules Committee proposes the adoption of Rule 1205, together with the amendment of Rules 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608, and 1609 to improve the Rules of Juvenile Court Procedure as they relate to the Indian Child Welfare Act and Bureau of Indian Affairs regulations, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

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

Daniel A. Durst, Chief Counsel
Juvenile Court Procedural Rules Committee
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All communications in reference to the proposal should be received by September 7, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court
Procedural Rules Committee

KELLY L. McNANEY, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

* * * * *

HEALTH CARE is care related to any medical need including physical, mental, and dental health. This term is used in the broadest sense to include any type of health need.

INDIAN CHILD is any unmarried person who is under the age of eighteen and is either 1) a member of an Indian tribe or 2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

JUDGE is a judge of the Court of Common Pleas.

* * * * *

Comment

* * * * *

"Health care" includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the child.

The definition for "Indian Child" originates from the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq.* and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.2.

A "juvenile probation officer" is an officer of the court. "Properly commissioned" as used in the definition of a

juvenile probation officer includes the swearing in under oath or affirmation and receipt of a document, certificate, or order of the court memorializing the authority conferred upon the juvenile probation officer by the court.

* * * * *

***Official Note*: Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended June 24, 2013, effective January 1, 2014. Amended October 21, 2013, effective December 1, 2013. Amended July 28, 2014, effective September 29, 2014. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1120 published with the Court's Order at 45 Pa.B. 7289 (December 26, 2015).

Final Report explaining the amendments of Rule 1120 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT

PART A. COMMENCING PROCEEDINGS

(*Editor's Note*: The following rule is proposed to be added and printed in regular type to enhance readability.)

Rule 1205. Indian Child.

A. *Inquiry and Determination.*

1) At the commencement of the initial proceeding, the court shall inquire as to the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child. All responses shall be placed on the record.

2) Unless the court is convinced there is no reason to know whether the child is an Indian child, the court shall make such inquiry at all subsequent proceedings.

3) The court shall advise the participants of their obligation to report to the court if they subsequently learn information that provides a reason to know the child is an Indian child.

B. *Finding of Court.* The court shall make a finding as to whether the child is an Indian child.

C. *Additional Requirements.*

1) In the event the court has reason to know the child is an Indian child, but lacks sufficient evidence to make such a finding, the court must confirm due diligence has been used to make such determination and the court shall treat the child as an Indian child until it can determine, from the record, that the child does not meet the definition of an Indian child.

2) If the court has sufficient evidence to conclude the child is an Indian child, then the notification and rights under the Indian Child Welfare Act apply.

Comment

The Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107, requires the court to determine if any participant has reason to know whether the child is an Indian child. The Act and federal regulations define an Indian child as one who is 1) unmarried, 2) under eighteen, and 3) a tribal member or eligible for tribal membership. 25 U.S.C. § 1903(4) and 25 C.F.R. § 23.2. The regulations place the burden on the court to ask every participant if there is any reason to know whether the child is an Indian child and to inform each participant of their ongoing obligation to inform the court if they subsequently learn of any reason to believe the child is an Indian child. If the court finds there is reason to believe the child is an Indian child, certain notification and rights become effective. *See* the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. Part 23.

The court must make a finding, on the record, as to whether the child is an Indian child.

In the event the court has reason to believe the child is an Indian child but does not have sufficient evidence to make a finding either way, the protections and notifications of the Act apply until such a time the record supports a determination that the child is not an Indian child. The tribe has exclusive jurisdiction and the authority to determine whether a child is either a member of the tribe or eligible for tribal membership. Specific notification and rights become applicable once a court makes a judicial determination that the child is an Indian child. *See* the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. Part 23.

***Official Note*: Rule 1148 adopted , 2017, effective , 2017.**

Committee Explanatory Reports:

Final Report explaining the adoption of Rule 1205 published with the Court's Order at Pa.B. (, 2017).

PART B. EMERGENCY CUSTODY

Rule 1210. Order for Protective Custody.

A. *Application of* **[*order*] *Order***. The application for a court order of protective custody may be orally made; however, the request shall be reduced to writing within twenty-four hours. The request shall set forth reasons for the need of protective custody.

B. *Finding of* **[*court*] *Court***.

* * * * *

2) At the time the court issues a protective custody order, the court shall inquire as to whether family finding efforts pursuant to Rule 1149 have been initiated by the county agency**, and as to the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. All responses must be placed on the record.**

* * * * *

C. *Law* **[*enforcement*] *Enforcement***. The court may authorize a search of the premises by law enforcement or the county agency so that the premises may be entered

into without authorization of the owner for the purpose of taking a child into protective custody.

D. *Contents of* **[** ***order*** **]** ***Order***. The court order shall include:

* * * * *

7) a finding whether the reasons for keeping the child in shelter care and that remaining in the home is contrary to the welfare and best interests of the child; **[and]**

8) findings and orders related to the requirements of Rule 1149 regarding family finding**[.]; and**

9) findings as to whether there is reason to know the child is an Indian child pursuant to Rule 1205.

E. *Execution of* **[** ***order*** **]** ***Order***. The court shall specify:

* * * * *

Comment

* * * * *

See also In re Petition to Compel Cooperation with Child Abuse Investigation, 875 A.2d 365 (Pa. Super. **[Ct.]** 2005).

The court is also to determine if any participant has reason to know whether the child is an Indian child. Paragraph (B)(2) and (D)(9) are intended to implement the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

Pursuant to paragraph (D)(8), the county agency should be looking for family and kin as a resource to aid and assist the family to prevent removal of the child from the home. When removal of the child is necessary, placement with family and kin will help reduce the potential trauma of the removal from the home. See Rule 1149 regarding family finding requirements.

***Official Note*:** Rule 1210 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1210 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1210 published with the Court's Order at Pa.B. (, 2017).

PART C. SHELTER CARE

Rule 1240. Shelter Care Application.

A. *Filings.* A shelter care application may be oral or in writing. If oral, within twenty-four hours of exercising protective custody pursuant to Rule 1210, the county agency shall file a written shelter care application.

B. *Application* **[** ***contents*** **]** ***Contents***. Every shelter care application shall set forth:

* * * * *

8) the signature of the applicant and the date of the execution of the application; **[and]**

9) the whereabouts of the child unless the county agency has determined it would pose a risk to the safety of the child or the guardian, or disclosure is prohibited by the court**[.]; and**

10) a statement as to the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

Comment

* * * * *

See Rule 1149 regarding family finding requirements.

Paragraph (B)(10) is intended to aid the court in complying with the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

***Official Note*:** Rule 1240 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1240 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1240 published with the Court's Order at Pa.B. (, 2017).

Rule 1242. Shelter Care Hearing.

A. *Informing of* **[** ***rights*** **]** ***Rights***. Upon commencement of the hearing, the court shall ensure that:

* * * * *

B. *Manner of* **[** ***hearing*** **]** ***Hearing***.

* * * * *

C. *Findings.* The court shall determine whether:

* * * * *

4) a person, other than the county agency, submitting a shelter care application, is a party to the proceedings; **[and]**

5) there are any special needs of the child that have been identified and that the court deems necessary to address while the child is in shelter care**[.]; and**

6) the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

D. *Prompt* **[** ***hearing*** **]** ***Hearing***. The court shall conduct a hearing within seventy-two hours of taking the child into protective custody. The parties shall not be permitted to waive the shelter care hearing.

E. *Court* **[** ***order*** **]** ***Order***. At the conclusion of the shelter care hearing, the court shall enter a written order setting forth:

* * * * *

Comment

* * * * *

Pursuant to paragraph (C)(4), the court is to determine whether or not a person is a proper party to the proceedings. Regardless of the court's findings on the party status, the court is to determine if the application is supported by sufficient evidence.

Pursuant to paragraph (C)(6) the court is also to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. Paragraph (C)(6) is intended to implement the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

Under paragraph (D), the court is to ensure a timely hearing. Nothing in paragraph (D) is intended to preclude the use of stipulations or agreements among the parties, subject to court review and acceptance at the shelter care hearing.

* * * * *

***Official Note*: Rule 1242 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. Amended May 16, 2017, effective July 1, 2017. Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).

Final Report explaining the amendments to Rule 1242 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART C. PETITION

Rule 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.

* * * * *

B. *Petition* **[** ***contents*** **]** ***Contents***. Every petition shall set forth plainly:

* * * * *

4) **[if a child is Native American, the child's Native American history or affiliation with a tribe;] whether there is reason to know the child is an Indian child;**

* * * * *

C. *Aggravated* **[** ***circumstances*** **]** ***Circumstances***. A motion for finding of aggravated circumstances may be brought in the petition pursuant to Rule 1701(A).

Comment

* * * * *

For the safety or welfare of a child or a guardian, the court may order that the addresses of the child or a guardian not be disclosed to specified individuals.

Paragraph (B)(4) is intended to aid the court in complying with the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

Pursuant to paragraph (B)(6), when the county agency is seeking placement, the petition is to include the reasonable efforts made to prevent placement, including efforts for family finding, and why there are no less restrictive alternatives available. *See* Rule 1149 for family finding requirements. *See also* Rule 1242(C)(2) & (3)(b) & (c) and Comments to Rules 1242, 1409, 1515, **[1608, 1609, 1610, and 1611] 1608—1611** for reasonable efforts determinations.

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***Official Note*: Rule 1330 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015. Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1330 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1330 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 14. ADJUDICATORY HEARING

Rule 1408. Findings on Petition.

The court shall enter findings, within seven days of hearing the evidence on the petition or accepting stipulated facts by the parties:

1) by specifying which, if any, allegations in the petition were proved by clear and convincing evidence; **[and]**

2) its findings as to whether the county agency has reasonably engaged in family finding as required pursuant to Rule 1149**[.]; and**

3) its findings as to the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

Comment

* * * * *

Pursuant to paragraph (2), the court is to make a determination whether the county agency has reasonably engaged in family finding in the case. The county agency will be required to report its diligent family finding efforts at subsequent hearings. *See* Rule 1149 for requirements of family finding. *See also* Rules 1210(D)(8), 1242(E)(3), 1512(D)(1)(h), 1514(A)(4), 1608(D)(1)(h), and 1610(D) and their Comments for the court's findings as to the county agency's satisfaction of the family finding requirements and Rules 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Rules 1242, 1409, 1512, 1514, 1515, **[1608, 1609, 1610, and 1611] 1608—1611** on the court's orders.

The court is also to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. Paragraph (3) is intended to implement the requirements of the Indian Child

Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

***Official Note*:** Rule 1408 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1408 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1408 published with the Court's Order at Pa.B. (, 2017).

Rule 1409. Adjudication of Dependency and Court Order.

A. *Adjudicating the* **[*child dependent*] *Child Dependent***. Once the court has made its findings under Rule 1408, the court shall enter an order whether the child is dependent.

* * * * *

C. *Court* **[*order*] *Order***. The court shall include the following in its court order:

* * * * *

Comment

Before the court can find a child to be dependent, there must be clear and convincing evidence in support of the petition. The burden of proof is on the petitioner. The court's inquiry is to be comprehensive and its findings are to be supported by specific findings of fact and a full discussion of the evidence. *In re LaRue*, **[244 Pa. Super. 218,]** 366 A.2d 1271 (**Pa. Super.** 1976). *See also* In re *Frank W.D., Jr.*, **[315 Pa. Super. 510,]** 462 A.2d 708 (**Pa. Super.** 1983); *In re Clouse*, **[244 Pa. Super. 396,]** 368 A.2d 780 (**Pa. Super.** 1976). The evidence must support that the child is dependent. *In the Matter of DeSavage*, **[241 Pa. Super. 174,]** 360 A.2d 237 (**Pa. Super.** 1976). **[The court is not free to apply the best interest of the child standard as the requirements of the Juvenile Act, 42 Pa.C.S. § 6341(c), require clear and convincing evidence that the child is dependent is the proper standard.] The court must apply the clear and convincing evidence standard (the best interest of the child standard) that the child is dependent per the requirements of the Juvenile Act, 42 Pa.C.S. § 6341(c).** *In re Haynes*, **[326 Pa. Super. 311,]** 473 A.2d 1365 (**Pa. Super.** 1983). A child, whose non-custodial parent is ready, willing, and able to provide adequate care for the child, cannot be found dependent on the basis of lacking proper parental care and control. *In re M.L.,* **[562 Pa. 646,]** 757 A.2d 849 (**Pa.** 2000). A trial court has the authority to transfer custody or modify custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. *In re Justin S.*, **[375 Pa. Super. 88,]** 543 A.2d 1192 (**Pa. Super.** 1988).

* * * * *

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. *See* 62 P.S. § 1301 *et seq*. *See also* Rules 1242(E)(3) and 1609(D) and Comments to Rules 1242, 1408, 1512, 1514, 1515, **[1608, 1609, 1610, and 1611] 1608—1611**.

The court is also to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. See the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

***Official Note*:** Rule 1409 adopted August 21, 2006, effective February 1, 2007. Amended July 13, 2015, effective October 1, 2015.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1409 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to the comment to Rule 1409 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 15. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 1512. Dispositional Hearing.

A. *Manner of* **[*hearing*] *Hearing***. The court shall conduct the dispositional hearing in an informal but orderly manner.

* * * * *

C. *Duties of the* **[*court*] *Court***. The court shall determine on the record whether the parties have been advised of the following:

* * * * *

D. *Court's* **[*findings*] *Findings***. The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1515.

1) On the record in open court, the court shall state:

* * * * *

j) any findings necessary to identify, monitor, and address the child's needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed; **[and]**

k) a visitation schedule, including any limitations**[.]; and**

l) findings as to the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

2) The court shall state on the record in open court or enter into the record through the dispositional order, findings pursuant to Rule 1514, if the child is placed.

Comment

To the extent practicable, the judge **[or master]** that presided over the adjudicatory hearing for a child should preside over the dispositional hearing for the same child.

* * * * *

Pursuant to paragraph (D)(1)(k), the court is to include siblings in its visitation schedule. *See* 42 U.S.C. § 671(a)(31), which requires reasonable efforts be made to place siblings together unless it is contrary to the safety or well-being of either sibling and that frequent visitation be assured if joint placement cannot be made.

Pursuant to paragraph (D)(1)(l), the court is also to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. Paragraph (D)(1)(l) is intended to implement the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

See Rule 1127 for recording and transcribing of proceedings.

See Rule 1136 for *ex parte* communications.

***Official Note*:** Rule 1512 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1512 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1512 published with the Court's Order at Pa.B. (, 2017).

Rule 1514. Dispositional Finding Before Removal from Home.

A. *Required* **[** ***findings*** **]** ***Findings***. Prior to entering a dispositional order removing a child from the home, the court shall state on the record in open court the following specific findings:

* * * * *

4) The county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding; **[and]**

5) One of the following:

* * * * *

c) If the court previously determined that reasonable efforts were not made to prevent the initial removal of the child from the home, whether reasonable efforts are under way to make it possible for the child to return home**[.]; and**

6) the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

B. *Aggravated* **[** ***circumstances*** **]** ***Circumstances***. If the court has previously found aggravated circumstances to exist and that reasonable efforts to remove the child from the home or to preserve and reunify the family are not required, a finding under paragraphs (A)(5)(a) through (c) is not necessary.

Comment

* * * * *

Pursuant to paragraph (A)(4), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. *See* 62 P.S. § 1301 *et seq*. *See also* Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Rules 1242, 1408, 1409, 1512, 1515, **[1608, 1609, 1610, and 1611] 1608—1611**.

Pursuant to paragraph (A)(6), the court is to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. Paragraph (A)(6) is intended to implement the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

***Official Note*:** Rule 1514 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1514 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1514 published with the Court's Order at Pa.B. (, 2017).

Rule 1515. Dispositional Order.

* * * * *

B. *Transfer of* **[** ***custody*** **]** ***Custody***. If the court decides to transfer custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, the dispositional order shall include:

* * * * *

Comment

* * * * *

If the requirements of Rule 1149 regarding family finding have not been met, the court is to make necessary orders to ensure compliance by enforcing this legislative mandate. *See* 62 P.S. § 1301 *et seq*. *See also* Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Rules 1242, 1408, 1409, 1512, 1514, **[1608, 1609, 1610, and 1611] 1608—1611**. 45 C.F.R. § 1356.21 provides a specific foster care provider may not be placed in a court order to be in compliance with and receive funding through the Federal Financial Participation.

The court is also to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursu-

ant to the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

Dispositional orders should comport in substantial form and content to the model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, *see* http://www.pacourts.us/forms/dependency-forms.

See In re Tameka M., **[525 Pa. 348,]** 580 A.2d 750 (**Pa.** 1990).

***Official Note*:** Rule 1515 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017**.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1515 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1515 published with the Court's Order at Pa.B. (, 2017).

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART B(2). PERMANENCY HEARING

Rule 1608. Permanency Hearing.

A. *Purpose and* **[*timing of hearing*]** ***Timing of Hearing***. For every case, the court shall conduct a permanency hearing at least every six months for purposes of determining or reviewing:

* * * * *

D. *Court's* **[*findings*]** ***Findings***.

1) *Findings at all six-month hearings.* At each permanency hearing, the court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1609. On the record in open court, the court shall state:

* * * * *

p) whether sufficient steps have been taken by the county agency to ensure the child has been provided regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities, including:

i) consulting the child in an age-appropriate or developmentally-appropriate manner about the opportunities to participate in activities; and

ii) identifying and addressing any barriers to participation; **[and]**

q) whether the visitation schedule for the child with the child's guardian is adequate, unless a finding is made that visitation is contrary to the safety or well-being of the child**[.]; and**

r) the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

2) *Another Planned Permanent Living Arrangement (APPLA) for Children Sixteen Years of Age or Older.* APPLA shall not be utilized for any child under the age of sixteen. At each permanency hearing for a child who is sixteen years or older and has a permanency goal of APPLA, the following additional considerations, inquiry, and findings shall be made by the court:

* * * * *

Comment

* * * * *

In addition to the permanency hearing contemplated by this rule, courts may also conduct additional **[and/or] or** more frequent intermittent review hearings or status conferences that address specific issues based on the circumstances of the case and assist the court in ensuring timely permanency.

* * * * *

Pursuant to paragraph (D)(1)(o), the county agency is to testify and enter evidence into the record on how it took sufficient steps to ensure the caregiver is exercising the reasonable and prudent parent standard. For the definition of "caregiver" and the "reasonable and prudent parent standard," *see* Rule 1120. Pursuant to paragraph (D)(1)(p), when documenting its steps taken, the county agency is to include how it consulted with the child in an age-appropriate or developmentally-appropriate manner about the opportunities of the child to participate in activities. For the definition of "age-appropriate or developmentally-appropriate," *see* Rule 1120. These additions have been made to help dependent children have a sense of normalcy in their lives. These children should be able to participate in extracurricular, enrichment, cultural, and social activities without having to consult caseworkers and ask the court's permission many days prior to the event. *See also* Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), 42 U.S.C. §§ 675 and 675a (2014).

Pursuant to paragraph (D)(1)(r), the court is to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. Paragraph (D)(1)(r) is intended to implement the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

Pursuant to paragraph (D)(2), there are additional considerations, inquiries, and findings when the court conducts a permanency hearing for a child, who is sixteen years of age or older and has a permanency plan of APPLA. APPLA should only be utilized as a permanency plan when all other alternatives have been exhausted. Even after exhaustive efforts have been made, the county agency should identify at least one supportive adult to be involved in the life of the child. Diligent efforts to search for relatives, guardians, adoptive parents, or kin are to be utilized. *See* Rule 1149 on family finding. Independent living services should also be addressed. Under paragraph (D)(2)(a)(i)(B), a fit and willing relative may include adult siblings.

* * * * *

***Official Note*:** Rule 1608 adopted August 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1,

2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended June 14, 2016, effective August 1, 2016. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1608 published with the Court's Order at 46 Pa.B. 3416 (July 2, 2016).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at Pa.B. (, 2017).

Rule 1609. Permanency Hearing Orders.

* * * * *

B. *Determination* **[** ***made*** **]** ***Made***. The court's order shall reflect a determination made pursuant to Rule 1608(D).

C. *Transfer of* **[** ***custody*** **]** ***Custody***. If the court decides to transfer custody of the child to a person found to be qualified to provide care, shelter, and supervision of the child, the permanency order shall include:

1) the name and address of such person unless disclosure is prohibited by court order;

2) the limitations of the order, including the type of custody granted; and

3) any temporary visitation rights of parents.

D. *Orders on* **[** ***family finding*** **]** ***Family Finding***.

1) The court order shall indicate whether family finding efforts made by the county agency were reasonable;

2) If the family finding efforts were not reasonable, the court shall order the county agency to engage in family finding prior to the next permanency hearing;

E. *Orders* **[** ***concerning education*** **]** ***Concerning Education***.

1) The court's order shall address the stability and appropriateness of the child's education; and

2) When appropriate, the court shall appoint an educational decision maker pursuant to Rule 1147.

F. *Orders* **[** ***concerning health care and disability*** **]** ***Concerning Health Care and Disability***.

1) The court's order shall identify, monitor, and address the child's needs concerning health care and disability; and

2) The court's orders shall authorize evaluations and treatment if parental consent cannot be obtained.

G. *Guardians.* The permanency order shall include any conditions, limitations, restrictions, and obligations imposed upon the guardian.

H. *Indian Child.* The permanency order shall include the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205.

Comment

* * * * *

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a child and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

Pursuant to paragraph (H), the court is to determine the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child pursuant to Rule 1205. Paragraph (H) is intended to implement the requirements of the Indian Child Welfare Act, 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107. *See* Rule 1205.

See Rule 1611 for permanency hearing orders for children over the age of eighteen.

***Official Note*:** Rule 1609 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1609 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1609 published with the Court's Order at Pa.B. (, 2017).

REPORT

Proposed Adoption of Pa.R.J.C.P. 1205; Proposed Amendment of Pa.R.J.C.P. 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608, and 1609

The Juvenile Court Procedural Rules Committee proposes a package to improve the Rules of Juvenile Court Procedure as they relate to the federal Indian Child Welfare Act and Bureau of Indian Affairs regulations. The package contains two components: 1) a new Rule 1205 to implement the Indian Child Welfare Act ("Act"), 25 U.S.C. § 1901 *et seq*. and the Bureau of Indian Affairs regulations, 25 C.F.R. § 23.107; and 2) amendments of Rules 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608, and 1609 to incorporate and reference the new Rule 1205. These changes are intended to reflect the requirements of the Act and federal regulations.

Indian Child Welfare Act

Briefly, the Act creates a policy for the United States "to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimal Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs." 25 U.S.C. § 1902. The Act provides "[a]n Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child. . . ." *Id.* § 1911.

In 2016, the Bureau of Indian Affairs promulgated regulations relating to the Act. The regulations require state courts to determine on the record, at the initial proceeding, whether a child subject to a "child custody proceeding" is an Indian child. *See also* 25 U.S.C. § 1903; 25 C.F.R § 23.2 (defining "child custody proceeding"); 25 C.F.R. § 23.103 (identifying proceedings in which the Act applies). The courts must also advise the participants of an ongoing obligation to inform the court if any of them subsequently learns the child is an Indian child. 25 C.F.R. § 23.107. If there is reason to believe the child is an Indian child, several protections outlined in the Act and regulations must be afforded to the child.

The Committee believes it is important to update the Rules to reflect these procedural requirements. Accordingly, the Committee proposes a new Rule 1205 and amendments to Rules 1120, 1210, 1240, 1242, 1330, 1408, 1409, 1512, 1514, 1515, 1608, and 1609 to require juvenile courts at the initial proceeding and thereafter to inquire as to the efforts made by the county agency to determine whether the child is an Indian child and whether any participant has reason to know the child is an Indian child. The court would be required to advise the participants of an ongoing obligation to inform the court if any of them subsequently learn the child is an Indian child.

Reader may observe that federal requirements include only "determination" and "advisement" components; whereas, the proposed state procedures include "inquiry," "determination," and "advisement" components. The addition of the "inquiry" aspect in the Juvenile Court Procedural Rules for Indian children was intended to be consistent with the court's responsibility to inquire as to the efforts made by the county agency to comply with family finding requirements. *See* Pa.R.J.C.P. 1149(A).

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 17-1202. Filed for public inspection July 21, 2017, 9:00 a.m.]

PART I. RULES

[237 PA. CODE CH. 16]

Proposed Amendment of Pa.R.J.C.P. 1601 and 1608

The Juvenile Court Procedural Rules Committee is republishing the proposed amendment of Rule 1601 to require notice of the intention to seek a goal change discontinuing reunification and Rule 1608 to prohibit such a goal change if notice was not provided, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

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

Daniel A. Durst, Chief Counsel
Juvenile Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9541
juvenilerules@pacourts.us

All communications in reference to the proposal should be received by September 7, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court
Procedural Rules Committee

KELLY L. McNANEY, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART A. SUMMONS, NOTICE, AND REPORTS

Rule 1601. Permanency Hearing Notice.

A. At least fifteen days prior to the hearing, the court or its designee shall give notice of the permanency hearing to:

1) all parties;

2) the attorney for the county agency;

3) the child's attorney

4) the guardian's attorney;

5) the parents, child's foster parent, preadoptive parent, or relative providing care for the child;

6) the court appointed special advocate, if assigned;

7) the educational decision maker, if applicable; and

8) any other persons as directed by the court.

B. If a party intends to request a goal change from reunification, then either the notice shall state this purpose or the party shall give separate notice of the intended goal change in accordance with paragraph (A).

Comment

Given the significance of discontinuing the goal of reunification, the requirement of paragraph (B) is to ensure that parties, counsel, and interested persons have notice of the purpose of the hearing and are able to prepare for and attend the hearing.

***Official Note*:** Rule 1601 adopted August 21, 2006, effective February 1, 2007. Amended April 29, 2011, effective July 1, 2011. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1601 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1601 published with the Court's Order at 41 Pa.B. 2413 (May 14, 2011).

Final Report explaining the amendments to Rule 1601 published with the Court's Order at Pa.B. (, 2017).

PART B(2). PERMANENCY HEARING

Rule 1608. Permanency Hearing.

* * * * *

D. *Court's* **[** ***findings*** **]** ***Finding***.

1) *Findings at all* **[** ***six-month hearings*** **]** ***Six-Month Hearings***. At each permanency hearing, the court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1609. On the record in open court, the court shall state:

* * * * *

c) the appropriateness and feasibility of the current placement goal for the child **provided that at no time may a goal be changed from reunification unless notice has been provided in accordance with Rule 1601(B)**;

* * * * *

Comment

* * * * *

Every child should have a concurrent plan, which is a secondary plan to be pursued if the primary permanency plan for the child cannot be achieved. *See* Comment to Rule 1512. For example, the primary plan may be reunification with the guardian. If the guardian does not substantially comply with the requirements of the court-ordered services, subsidized legal guardianship may be utilized as the concurrent plan. Because of time requirements, the concurrent plan is to be in place so that permanency may be achieved in a timely manner.

Paragraph (D)(1)(c) is intended to provide adequate notice and the opportunity to be heard when a goal is being changed from reunification. If the court intends to change the child's goal from reunification without a prior notice provided by a party pursuant to Rule 1601(B), then the court shall direct the county agency to provide such notice in accordance with Rule 1601(B).

Pursuant to paragraph (D)(1)(h), the court is to determine whether the county agency has reasonably satisfied the requirements of Rule 1149 regarding family finding, including the location and engagement of relatives and kin at least every six months, prior to each permanency hearing. If the county agency has failed to meet the diligent family finding efforts requirements of Rule 1149, the court is to utilize its powers to enforce this legislative mandate. *See* 62 P.S. § 1301 *et seq.; see also* Rules 1210(D)(8), 1242(E)(3), 1409(C), 1609(D), and 1611(C) and Comments to Rules 1242, 1408, 1409, 1512, 1514, 1515, 1609, and 1611.

* * * * *

***Official Note*:** Rule 1608 adopted August 21, 2006, effective February 1, 2007. Amended December 18, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended October 21, 2013, effective December 1, 2013. Amended July 13, 2015, effective October 1, 2015. Amended December 9, 2015, effective January 1, 2016. Amended June 14, 2016, effective August 1, 2016. **Amended , 2017, effective , 2017.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1608 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 40 Pa.B. 21 (January 2, 2010).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 41 Pa.B. 2319 (May 7, 2011).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 41 Pa.B. 2430 (May 14, 2011).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 43 Pa.B. 6658 (November 9, 2013).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 45 Pa.B. 7289 (December 26, 2015).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at 46 Pa.B. 3416 (July 2, 2016).

Final Report explaining the amendments to Rule 1608 published with the Court's Order at Pa.B. (, 2017).

REPORT

Proposed Amendment of Pa.R.J.C.P. 1601 and 1608

The Juvenile Court Procedural Rules Committee proposes the amendment of Rule 1601 to require notice of the intention to seek a goal change discontinuing reunification and Rule 1608 to require notice before a goal can be changed from reunification.

The Committee was informed of circumstances wherein permanency review hearings were resulting in goal changes discontinuing reunification without prior notice that such a goal change was to be decided at the hearing. The Committee notes that "goal change hearings" may be emotional for both the child and the parents. Further, it is best practice to provide notice of an upcoming goal change hearing. *See* Pennsylvania Children's Roundtable Initiative. *Pennsylvania Dependency Benchbook* at p. 119. Harrisburg, PA: Office of Children and Families in the Courts, 2010.

Previously, the Committee proposed amendments to Rule 1601 and 1609 to require the county agency to give notice that a goal change is being sought in a permanency review hearing. *See* 47 Pa.B. 947 (February 18, 2017). To provide timely notice and the opportunity to prepare for and attend the hearing, the Committee proposed to

amend Rule 1601 to add paragraph (B) to require either the permanency hearing notice to indicate whether the county agency seeks to discontinue a goal of reunification or for the county agency to provide separate notice consistent with paragraph (A) in terms of recipients and timeliness.

The Committee also proposed to amend Rule 1609 to provide for a discretionary rehearing if notice was not given in accordance with Rule 1601(B). The language of the amendment was based, in part, upon Rule 1243(B) providing for a discretionary rehearing for shelter care hearings. The proposal was not intended to encourage noncompliance with Rule 1601(B); rather, it rejected a categorical mandate for a rehearing in every instance and invested the judge with the discretion to determine whether a rehearing is warranted.

After reviewing comments and deliberating further on the proposal, the Committee has made several revisions. First, proposed Rule 1601(B) is expanded to include all parties rather than solely the county agency. Second, the provision for a discretionary rehearing was eliminated. The Committee was persuaded that the effect of a goal change from reunification was so significant that notions of due process require timely notice of the possibility of a goal change from reunifications in all instances. The Committee disagreed with the suggestion that an intention to seek a goal change from reunification does not change the dynamic of the permanency review hearing in terms of preparation, witnesses, and significance. A commenter suggested that parties should be prepared for goal change from reunification at every hearing, negating the need for notice. However, the Committee recognized that this was not practical in the environment in which these cases are heard. Hearings to determine if a goal should be changed from reunification are often populated by witnesses beyond those required at a typical permanency review hearing. To expect parties to be prepared for a goal change from reunification at every permanency review hearing would obligate the party to bring every witness that could be required if the county agency seeks to change the goal from reunification with notice or the court does so unilaterally. Further, the Committee considered the common practice in many counties of the Judge to inform the party at their permanency review hearing that if progress does not improve or circumstances do not change, the goal may very well be changed at the next permanency review hearing. This may qualify as adequate notice under Rule 1601(B) provided it is done in writing and within the time frame established by the Rule.

Given the gravity of a permanency review hearing that may result in a goal change from reunification, the Committee proposes to amend Rule 1608(d)(1)(c) to require that notice in accordance with proposed Rule 1601(B) be given before a court can order a goal change from reunification. As indicated in the revised Comment to Rule 1608, the court should direct the county agency to give notice to all other parties when the court seeks to change the goal in the absence of such notice.

In light of these changes, the Committee is republishing this proposal and all comments, concerns, and suggestions.

[Pa.B. Doc. No. 17-1203. Filed for public inspection July 21, 2017, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WESTMORELAND COUNTY

Civil Rule—Electronic Filing; No. 3 of 2017

Administrative Order of Court

And Now, this 5th day of July, 2017, *It Is Hereby Ordered* that Westmoreland County Rules W205.4 is hereby adopted. This change is effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

RICHARD E. McCORMICK, Jr.,
President Judge

Rule W205.4. Electronic Filing of Legal Papers in Westmoreland County.

(a)(1) Except as noted below, use of the Westmoreland County electronic filing system is permissive for the filing of all legal papers in the Civil Division and Family Division, in all actions and proceedings brought in or appealed to the Court.

A. Use of the Westmoreland County electronic filing system is not permitted for the following Civil Division filings:

1. Notice of Appeal to the Superior, Commonwealth or Supreme Courts, or Petition for Review to the Commonwealth Court

2. Notice of Appeal from arbitration award and related papers and record

3. Notice of Appeal from magisterial district justice award and related papers and record

4. Emergency motion

5. Exemplification of Records

6. Praecipe to Reissue Writ of Summons

7. Praecipe to Reinstate Complaint

8. Petitions for Name Change

9. Filings under seal

10. Oversized documents or documents that cannot be reduced into an 8 1/2 × 11 inch format.

11. License Suspension Appeals

B. Use of the Westmoreland County electronic filing system is not permitted for the following Family Division filings:

1. Legal papers related to actions under the Protection from Abuse Act

2. Legal papers relating to custody: legal custody; physical custody; supervised physical custody; petition for modification of a custody order; petition for contempt; petition to intervene as well as a complaint in divorce that contains a count for custody

3. Emergency motions

4. Filings under seal

(b)(1) All legal papers shall be presented for electronic filing in PDF format.

(c)(1) Reserved.

(c)(2) All legal papers that are filed electronically shall be filed through the Prothonotary's electronic filing system. Attorneys and unrepresented parties may access the electronic filing system through the Westmoreland County Prothonotary's website, http://www.co.westmoreland.pa.us/323/Prothonotary. To obtain access to the electronic filing system, counsel and any unrepresented party must apply to the Prothonotary's Office for a user name and password. By logging into the electronic filing system and creating a user name and password, the user consents to receive all notices generated by the Prothonotary and the Courts electronically, via the email address provided in the user's profile. By providing an email address in a profile, the user is deemed to have provided an email address on a legal paper filed consistent with Pa.R.Civ.P. 236(d).

(d)(1) The Prothonotary will accept for payment of all filing fees electronic checks and the following credit and debit cards: Discover, Visa and Master Card.

(e)(1) A filing party shall be responsible for any filing fee, delay, disruption, interruption of the electronic signals and legibility of the document electronically filed, except when caused by the failure of the electronic filing system's website.

(e)(2)(A) The court upon motion shall resolve any dispute arising under paragraph (e)(1).

(e)(2)(B) If a party makes a good faith effort to electronically file a legal paper but it is not received, accepted or filed by the electronic filing system, the Court may order that the paper be accepted and filed nunc pro tunc upon a showing that the filing party or counsel made reasonable efforts to present and file the paper in a timely manner.

(f)(1) Upon receipt of the legal paper, the Prothonotary shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the electronic filing system. The Prothonotary also shall provide the filing party with notice that the legal paper was accepted for filing. If a legal paper is not accepted upon presentation for filing or is refused for filing by the electronic filing system, the Prothonotary shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or was refused for filing by the system, and the reason.

(f)(2) The Prothonotary shall continue to maintain a hard copy of any legal paper, notice or order filed or maintained electronically under this rule.

(f)(3) The electronic filing of a legal paper does not satisfy the filing party's obligation under the Pennsylvania Rules of Civil Procedure or the Westmoreland County Rules of Civil Procedure to serve the legal paper on all parties to the litigation or on the Court.

(f)(4) The procedures for payment of the fees and costs related to electronic filing shall be set forth on the Westmoreland County Prothonotary's website, http://www.co.westmoreland.pa.us/323/Prothonotary.

Note: Attorneys and litigants who file documents are required to comply with the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.

[Pa.B. Doc. No. 17-1204. Filed for public inspection July 21, 2017, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Toan Quy Thai (# 63937), having been disbarred from the practice of law in the District of Columbia Court of Appeals, the Supreme Court of Pennsylvania issued an Order on July 11, 2017, disbarring Toan Quy Thai from the Bar of this Commonwealth, effective August 10, 2017. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,
Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 17-1205. Filed for public inspection July 21, 2017, 9:00 a.m.]