

CHAPTER 7. ASSIGNMENT OF JUDGES

ASSIGNMENT AND TRANSFER OF JUDGES

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ASSIGNMENT AND TRANSFER OF JUDGES

Rule 701. Assignment of judges to courts.

(A) *Conditions Applicable for the Certification of Senior Magisterial District Judges, Judges or Justices.*

- (1) To be eligible for senior certification, a district justice, judge or justice:
 - (a) shall have served as a district justice, judge or justice, whether or not continuously or on the same court, by election or appointment for an aggregate period equaling a full term of office; and
 - (b) shall not have been defeated for reelection or retention.
- (2) In addition to paragraph (1), any duly elected district justice, judge or justice, having an aggregate of five years of judicial service, who is required to retire at age seventy, shall be eligible for certification.

(3) Senior status shall end on the last day of the calendar year in which a magisterial district judge, judge or justice attains age seventy-eight; however, those serving in senior status as of the effective date of this rule who were previously excepted from the age seventy-five limitation pursuant to the amendment of January 1, 1999 may continue to serve until the last day of the calendar year in which they attain age eighty.

(4) For certification of senior status, a district justice, judge or justice shall verify such additional information as required by the application for certification forms authorized under paragraph (B) below.

(5) A magisterial district judge, judge or justice may only be certified for senior status for a maximum of ten years, absent extraordinary circumstances, as determined by the Chief Justice. However, those serving in senior status as of the effective date of this rule may continue to serve until subject to the age limit of paragraph (3) above.

(B) *Certification of Senior District Justices, Judges and Justices.* The Administrative Office shall promulgate application forms, as approved by the Supreme Court, for certification of senior district justices, judges and justices. A former or retired district justice, judge or justice who requests assignment to temporary

judicial service shall file the application for certification form with the Administrative Office, and, upon approval, shall be eligible for judicial assignment. Failure to comply with the provisions contained in the application form may result in the immediate revocation of senior certification.

(C) *Request for the Assignment of Additional District Justices or Judges.*

(1) *Request for Assignment.* Whenever a president judge deems additional judicial assistance necessary for the prompt and proper disposition of court business, he or his proxy shall transmit a formal request for judicial assistance to the Administrative Office. The request may be made in writing or it may be transmitted electronically. An electronic request for judicial assistance shall be accomplished through a secure program developed by the Administrative Office for this purpose.

(2) *Recommendation by the Court Administrator of Pennsylvania and Action by Chief Justice.* Upon the recommendation of the Court Administrator, the Chief Justice may, by order, assign any retired, former, or active district justice, judge or justice to temporary judicial service on any court to fulfill a request by a president judge, or to reduce case inventories, or to serve the interest of justice. The order entered by the Chief Justice may be electronically transmitted to the Administrative Office of Pennsylvania Courts for processing.

Orders entered pursuant to this chapter may be transmitted by the Administrative Office to the Supreme Court prothonotary in hard copy or electronically. Electronically transmitted orders shall be docketed by the Supreme Court prothonotary in the same manner as hard copy orders. Electronically transmitted orders need not be printed by the Supreme Court prothonotary unless a request for public review is made.

(3) *Duration of Assignment.* Unless otherwise provided in the order of assignment, the order shall continue in effect after its stated expiration date until unfinished business pending before the assigned judge is completed.

(4) *Certification of Service.* The president judge of a district to which a district justice or judge has been temporarily assigned under this rule shall certify to the Administrative Office, on a certificate completed and signed by the assigned district justice or judge, the number of days of temporary judicial service and the amount of any compensation to which the assigned judge is entitled.

(5) *Expenses of Assigned Judges.* All judges assigned to duties outside of their judicial districts may, in addition to any per diem payment authorized by law, be reimbursed with the approval of the Court Administrator for necessary expenses, including hotel accommodations and meals, incident to such duties.

(6) *Restrictions on Temporary Assignments.* No judge shall be assigned under this rule to any court while any judge thereof is assigned to another court under this rule, except when required to take the place of a judge who is recused or disqualified, or is otherwise unavailable, or under other appropriate circumstances.

(7) *Ceremonial Functions.* District justices, judges and justices on temporary assignments shall have authority to conduct ceremonial functions, including performing weddings and administering oaths.

(D) *Judicial Assignment Records.* The Administrative Office shall maintain records of certification applications and assignments to temporary judicial service.

(E) *Regional Administrative Units.*

(1) Judicial districts through their president judges may petition the Supreme Court for approval to combine with other districts to form regional administrative units that provide for the assignment of district justices and judges to any other judicial district in the unit. Upon annual approval by the Supreme Court, district justices and judges, when so assigned, shall exercise the same power and authority as vested in a district justice or judge of that judicial district.

(2) In cases where a judge has disqualified him or herself for any of the reasons specified in Canon 3 C of the Code of Judicial Conduct, the assignment of another judge to the case shall be made through the Administrative Office. In other instances of recusal, the assignment may be made through the Regional Unit, but in no case shall a recusing judge select his or her replacement.

(3) Each regional unit shall file with the Administrative Office a quarterly report of all assignments that occurred within the unit for that period.

(F) *Suitable Facilities and Staffing for Senior Common Pleas Judges.* Suitable facilities and adequate staff are to be provided for senior judges, the parameters of which are to be determined and promulgated by the Administrative Office.

Directive: In accordance with Rule of Judicial Administration 701(F), the Administrative Office of Pennsylvania Courts promulgates this directive establishing minimum standards for suitable facilities and adequate staff for the senior judges of the courts of common pleas.

The president judge of a judicial district, in consultation with the Court Administrator of Pennsylvania as needs may require, shall provide from available resources for each senior judge formerly of the judicial district who is regularly or periodically assigned in that district and for each visiting senior judge the following facilities and staff for matters arising under the appointment:

(1) the use of judicial chambers which shall be of adequate size and appropriately furnished, afford a measure of privacy, and include office equipment and supplies as are necessary to conduct judicial business;

(2) services of a law clerk who shall provide customary assistance including legal research and drafting of legal documents; and

(3) services of a secretary who shall provide customary assistance including typing correspondence, orders and opinions, answering phone calls and taking messages, receiving and sending mail and deliveries.

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RULES OF ADMINISTRATION

Official Note: The expense reimbursement authorized by subdivision (C)(5) is in addition to the per diem payable under the Act of June 1, 1956 (1955 P. L. 1959) § 10, 17 P. S. § 830.32.

Supreme Court Rule 79 adopted effective Oct. 10, 1966; renumbered Rule 701 March 15, 1972; amended effective Feb. 20, 1975; June 10, 1975; Oct. 5, 1977, amended June 26, 1980, effective Aug. 2, 1980, amended effective April 29, 1998; Dec. 8, 1998, effective Jan. 1, 1999; amended April 18, 2002, effective January 6, 2003.

Source

The provisions of this Rule 701 adopted and effective October 10, 1966; renumbered from Supreme Court Rule 79 by Order dated March 15, 1972; amended and effective Feb. 20, 1975; amended October 5, 1977, effective October 5, 1977, 7 Pa.B. 3056; amended August 1, 1980, effective August 2, 1980, 10 Pa.B. 3164; amended April 29, 1998, effective immediately, 28 Pa.B. 2283; amended December 8, 1998, effective January 1, 1999, 28 Pa.B. 6290; amended May 28, 1999, effective May 29, 1999, 29 Pa.B. 2766; amended April 18, 2002, effective January 6, 2003, 32 Pa.B. 2196; amended January 10, 2003, effective immediately 33 Pa.B. 634; amended November 20, 2007, effective immediately, 37 Pa.B. 6385; amended December 27, 2007, effective January 1, 2008, 38 Pa.B. 220. Immediately preceding text appears at serial pages (331663) to (331666).

Rule 702. Divisional assignments of judges.

1. Each judge appointed or elected to fill a vacancy in a court of common pleas having more than two divisions shall be initially assigned by the president judge of the court to be a member of a division of the court. Unless previously approved by the Supreme Court, such assignment shall be temporary only until such approval has been received.

2. The president judge of a court of common pleas which consists of more than two divisions may make temporary assignments of judges from one division to another division of the court when required in order to expedite the business of the court. He shall not make any permanent re-assignment of a judge from one division to another division without the approval of the Supreme Court.

3. For the purpose of transacting the business of a division for which a vote may be required, only those judges who have been permanently assigned to a division shall have the right to vote. A judge who is temporarily assigned to a division other than the division to which he is permanently assigned shall be entitled to vote only in the latter division.

4. Where approval of the Supreme Court is required under this rule, it shall be requested by a petition by the president judge of the court of common pleas. Such request may be made prior to or subsequent to the making of an initial assignment or a re-assignment. If made after assignment or re-assignment, the petition shall be filed with the prothonotary within ten (10) days from the date thereof. Such petition shall state the reasons the assignment or re-assignment is deemed necessary and proper in the interest of the effective administration of the business of the court. The Supreme Court on its own motion may make divisional assignments of judges as it deems appropriate.

5. In courts of common pleas where the only division is an orphans' court division, the judge or judges not assigned to that division shall for purposes of this rule be considered as constituting a separate division.

Source

The provisions of this Rule 702 adopted November 10, 1970, effective November 10, 1970; renumbered from Supreme Court Rule 82 by Order dated March 15, 1972; amended May 9, 1990, effective immediately, 20 Pa.B. 2893; amended November 6, 1998, effective immediately, 28 Pa.B. 5849. Immediately preceding text appears at serial pages (52102) to (243876) and (225783).

SUPERVISION AND ASSIGNMENT OF JUDGES

Rule 703. Reports of judges.

(A) Policy Statement.

It is the policy of the unified judicial system that any matter at any stage of a proceeding be brought to a fair conclusion as promptly as possible, consistent with the character of the matter and the resources of the system. The requirements of this rule further specify and implement this policy in keeping with the Court's constitutionally mandated responsibility to oversee the prompt and proper disposition of the business of the Pennsylvania courts.

(B) General Rule.

(1) Every judge shall keep a record of each matter that has been submitted to the judge for decision and which remains undecided.

(2) Every judge shall compile a semi-annual report stating whether the judge has any matter that has been submitted to the judge for decision and

remains undecided for ninety days or more as of the last day of the reporting period. Each report shall include matters listed on prior reports which remain undecided.

(a) *Decision* includes the grant or denial of a pretrial, post-trial, or post-sentence motion or petition, non-jury verdict or decision, entry of an order or judgment, imposition of a sentence, or the filing of an opinion. A matter is submitted for decision even though briefs, transcripts, or reports have been ordered but have not yet been filed.

(b) *Judge* means a judge of a court of common pleas or a judge of the Philadelphia Municipal Court, active or senior, commissioned six months or longer.

(3) If there are no matters submitted to the judge which remain undecided for ninety days or more, the report shall so state.

Official Note: Under this rule, judges must take inventory of matters in chambers, evaluate their status, and determine the steps needed for timely disposition. Judges must also take an active role in ensuring the timely preparation of documents, such as notes of testimony or psychiatric reports.

(C) *Form and Content of Report.*

(1) The report shall be prepared on a form supplied by the Administrative Office of Pennsylvania Courts or generated by the computer system of the judge's court in the same format as the form supplied by the Administrative Office.

(2) The report shall be signed by the judge.

(3) For each matter which remains undecided ninety days or more, the report shall state:

- (a) the type, caption, and number of the case;
- (b) the nature of the matter;
- (c) the date of submission to the judge;
- (d) the specific reason(s) for the delay; and
- (e) the specific steps taken to remedy the delay.

Official Note: Specific reasons for a delay might be the filing of additional briefs, a change in the representation of the parties, ongoing settlement negotiations at the request of the parties.

(D) *Filing.*

(1) The report covering the preceding period of July 1 through December 31 shall be filed on or before January 20, and the report covering the preceding period of January 1 through June 30 shall be filed on or before July 20.

(2) Whenever January 20 or July 20 falls on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, the date for filing shall be the next business day.

(3) The judge shall file the original report with the Court Administrator of Pennsylvania, and shall file copies of the report with the president judge and the district court administrator of the court on which the judge serves.

Official Note: The requirement that judges file copies of their reports with the president judge and district court administrator will better enable those officials to monitor their dockets in order to address problem areas promptly. If decisional delay persists, the president judge should take strong

corrective action. Such action may include providing the judge with additional support or educational resources as may be reasonably available; restructuring judicial case assignments, non-decisional assignments, or work schedules; or any other supervisory action designed to assist the reporting judge in becoming current.

(4) Senior judges or active judges serving in more than one judicial district shall file one consolidated report with the Administrative Office, and shall file copies of the consolidated report with the president judge and the district court administrator for each judicial district in which the judge has matters that have been submitted for decision.

(E) *Supplemental Statement by President Judge.*

(1) A president judge, at the request of the Court Administrator of Pennsylvania, shall supplement a judge's report with a separate statement of any circumstances affecting the matters reported.

(2) Within thirty days of the president judge's receipt of the request from the Court Administrator of Pennsylvania, any supplemental statement shall be filed with the Court Administrator of Pennsylvania, the judge who filed the report, and the district court administrator.

(F) *Public Inspection.*

Copies of all reports and supplemental statements filed pursuant to paragraphs (B) and (E) shall be made available by the Court Administrator of Pennsylvania and the district court administrator for public inspection and copying.

(G) *Report to Judicial Conduct Board.*

(1) The Court Administrator of Pennsylvania shall immediately notify the Judicial Conduct Board if a judge fails to file a timely report as required by this rule.

(2) The Court Administrator of Pennsylvania shall, where appropriate, forward to the Judicial Conduct Board any report which includes one or more matters which have remained undecided for one year or more.

Source

The provisions of this Rule 703 adopted March 21, 1972; amended March 7, 1973, 3 Pa.B. 441; effective March 21, 1972; amended January 28, 1997, effective immediately, with the first report due on or before July 21, 1997, 27 Pa.B. 794. Immediately preceding text appears at serial pages (149447) to (149448).

Rule 705. Seniority of judges.

(a) *Seniority between elected and appointed judges.* Elected judges shall have seniority over appointed judges.

(b) *Seniority among elected judges.* The seniority of elected judges shall be determined on the basis of the date of election, if service is continuous on the same court. Service by appointment shall not be considered in computing seniority among elected judges.

(c) *Seniority among appointed judges.* The seniority of appointed judges, for the duration of appointment, shall be computed from the date of appointment, if service is continuous on the same court.

(d) *Simultaneous election or appointment.* Should any two judges of the same court be elected or appointed at the same time, they shall cast lots forthwith for priority of commission and seniority before the Chief Justice or the president judge of the court in which they are to serve, and certify the results to the Governor.

(e) *Judges of merged courts.* Where two or more courts are merged, service on any one of the constituent courts shall be deemed to be service on the surviving court for the purpose of determining length of continuous service on the surviving court under this rule.

(f) *Judges of new courts.* The initial judges of a newly created court shall be deemed to be elected judges for the purposes of this rule regardless of the method of their initial selection. If a statute creating a court shall specify the seniority among the initial judges of the court such statute shall control over any inconsistent provision of this rule.

(g) *Certification of seniority.* Where priority of commission or seniority of a judge is determined under this rule, the Chief Justice or the president judge of the court in question shall certify the same to the Administrative Office, which shall record such information in the book maintained for such purpose.

(h) *Waiver of seniority.* A judge may waive in writing seniority to which he is otherwise entitled under this rule with respect to any specific right, privilege, immunity or position, but no revocation of any such waiver shall affect any rights or status acquired while such waiver is in effect.

Source

The provisions of this Rule 705 adopted May 2, 1972; amended through November 30, 1972; effective May 2, 1972.

Rule 706. Determination or selection of Chief Justice and president and administrative judges.

(a) *Courts of seven or less judges.* Except as provided in subdivision (e) of this rule, the Chief Justice of Pennsylvania and the president judges of all courts with seven or less judges shall be the judge longest in continuous service on their respective courts.

(b) *Courts of eight or more judges.* The president judge of all courts with eight or more judges shall be selected for five-year terms by the members of their respective courts. In the event of a tie vote for the office of president judge, the Supreme Court shall appoint as president judge for a five-year term one of the judges receiving the highest number of votes. Upon the occurrence of a vacancy in the office of president judge of a court subject to this subdivision by reason of death, resignation, removal, retirement or otherwise, his successor shall be

selected for a five-year term. No president judge may succeed himself or herself after a full elected term without an intervening full elected term.

(1) Upon the vacation of the office of President Judge or Administrative Judge by death, resignation, termination of term of office or removal by the Supreme Court, all personal staff members of said judge shall be reassigned to a general pool for a period of sixty (60) days to be assigned to other judges or terminated, except as follows:

(i) Those employees (i.e., secretary, tipstaff, law clerk) retained by the outgoing judge who continues serving as a trial or appellate court judge shall be compensated at a level commensurate with other trial and appellate court staff members, taking into consideration their total years of service, where applicable;

(ii) Those employees of the outgoing judge chosen by other judges of the same court to serve on their staffs may be retained and shall be compensated at a level commensurate with the staff position, taking into consideration their total years of service, where applicable.

(c) *Change in size of court.* Where there is a change in the size of a court to a court of eight or more judges, or to a court of seven or less:

(1) An incumbent president judge, if theretofore determined pursuant to subdivision (a) of this rule, shall continue in office as president judge of the court for a period of five years from the date on which the authorized increase in the size of the court becomes effective, whereupon the term of such president judge under subdivision (a) of this rule shall expire. Subdivision (b) of this rule shall become applicable to such court whenever such incumbent president judge shall cease for any reason to be president judge.

(2) An incumbent president judge, if theretofore selected pursuant to subdivision (b) of this rule, shall continue in office as president judge of the court for the remainder of the unexpired portion of his term as president judge. Subdivision (a) of this rule shall become applicable to such court whenever such incumbent president judge shall cease for any reason to be president judge.

(d) *Divisions of a court.* Each division of a court having three or more judges shall be presided over and administered by an administrative judge, who shall be one of the judges of the court of which the division is a part and shall be selected by the Supreme Court to serve for a term of three years or at the pleasure of the Court. Upon the occurrence of a vacancy in the office of administrative judge, the president judge shall notify the Supreme Court immediately.

(e) *Resignation and temporary inability.* The Chief Justice or a president or administrative judge may resign such position and remain a member of the court or division. If the Chief Justice or a president judge of a court subject to subdivision (a) of this rule is temporarily unable to perform his duties as such, they shall be performed by the next senior judge of the court as determined by Rule

705 who is able to perform such duties. If the president judge of a court subject to subdivision (b) of this rule is temporarily unable to perform his duties as such, they shall be performed by:

- (1) In the case of a court having three or more divisions, the senior judge of the court, as determined by Rule 705, who is an administrative judge and who is able to perform such duties.
- (2) In the case of any other such court, by an acting president judge:
 - (i) designated from such court for a period of not more than 30 calendar days by the president judge; or
 - (ii) selected by such court pursuant to subdivision (f) of this rule.

If the administrative judge of a division of such a court is temporarily unable to perform his duties as such, they shall be performed by an acting administrative judge designated from such division for a period of not more than 30 calendar days by the Supreme Court. Where a president judge designates an acting president judge pursuant to this subdivision, the president judge or the Supreme Court, respectively, shall forthwith execute a statement of such designation on a form provided by the Administrative Office, file a copy of such certificate in the office of the clerk or prothonotary of the court, and transmit the original thereof, showing evidence of such filing, to the Administrative Office.

(f) *Selection procedures.*

(1) Each court selecting a president judge pursuant to this rule shall do so at a meeting held pursuant to this subdivision. Except as otherwise prescribed in this paragraph, the court shall meet for such purpose in the chambers of the senior judge, as determined by Rule 705, who is under age 70 and entitled to participate in the selection, or in a courtroom designated by him, at noon on the tenth day (Sundays excepted) preceding the expiration of the term of office of the incumbent president judge, or on the tenth day (Sundays excepted) next following the death, resignation, removal, retirement or reassignment of the president judge for whom a successor is to be selected. A majority of the judges entitled to participate in the selection of a president judge may fix another time and place for the selection of a president judge consistent with the requirements of this paragraph, upon giving all other judges entitled to participate therein at least 72 hours prior written notice of the time and place fixed for the meeting. Whenever a vacancy occurs or will occur in the office of president judge between February 1 of any odd-numbered year and the first Monday of January next following, the meeting for the purpose of selecting a president judge shall not be held before noon on such first Monday of January, but a meeting may be held during such period for the purpose of selecting an acting president judge.

(2) At the meeting the senior judge, as determined by Rule 705, who is under age 70 and present, shall preside. Ballots shall be prepared and distrib-

uted containing the name of each judge of the court. Voting shall be by secret ballot and the judge receiving a plurality of the votes cast shall be declared selected.

(3) The judge presiding at the meeting, or in default thereof, any two judges present at the meeting, shall forthwith execute a certificate of the results of the balloting on a form provided by the Administrative Office. The judge or judges executing the certificate shall forthwith file a copy thereof in the office of the clerk or prothonotary of the court and shall at the same time transmit the original thereof, showing evidence of such filing, to the Administrative Office.

(4) Upon receipt of a certificate reflecting a tie vote for the selection of a president judge the Administrative Office shall forward the certificate to the Supreme Court, which will indicate its selection of president judge thereon and will return the certificate to the Administrative Office. The Administrative Office shall thereupon forthwith transmit a copy of the completed certificate to the office of the appropriate clerk or prothonotary for filing as provided in paragraph (3) of this subdivision.

(g) *Maintenance of central personnel records.* The Administrative Office shall record the determination or selection of the Chief Justice and all president and administrative judges, any term for which they may be selected, and all other pertinent information relating thereto, in a book to be kept for that purpose and shall:

(1) Notify the judges of a court at least 30 days prior to the expiration of the term of office of the president judge of the fact of such expiration.

(2) Furnish the Department of State with such information as may be required in order to enable the Governor to duly commission a Chief Justice or president judges in the manner provided by the Constitution of Pennsylvania and this rule.

(h) *Traffic Court of Philadelphia.* Subdivisions (a) through (g) of this rule are not applicable to the Traffic Court of Philadelphia.

Source

The provisions of this Rule 706 adopted January 18, 1973, 3 Pa.B. 157; amended April 25, 1980, effective April 25, 1980, 10 Pa.B. 1859; amended May 9, 1990, effective immediately, 20 Pa.B. 2893 and 20 Pa.B. 2894; amended May 8, 1991, effective immediately, 21 Pa.B. 2453. Immediately preceding text appears at serial pages (149450) to (149453).

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