

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 15]

Proposed Amendments to Pa.R.A.P. 1513

The Appellate Court Procedural Rules Committee proposes to recommend amendments to Pa.R.A.P. 1513. This proposal is being submitted for public comments, suggestions, and concerns prior to submission to the Supreme Court.

Proposed new material is in bold face type and deleted material is bracketed and in bold face type.

All communications in reference to the proposed amendment should be sent no later than May 16, 2014 to:

Appellate Court Procedural Rules Committee
 Pennsylvania Judicial Center
 601 Commonwealth Ave., Suite 6200
 P.O. Box 62635
 Harrisburg, Pennsylvania 17106-2635
 or Fax to
 (717) 231-9551
 or E-Mail to
 appellaterules@pacourts.us

An Explanatory Comment follows the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court
 Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

PETITION FOR REVIEW

Rule 1513. Petition for Review.

* * * * *

(d) *Content of appellate jurisdiction petition for review.* An appellate jurisdiction petition for review shall contain:

* * * * *

(5) a general statement of the objections to the order or other determination[; and], **but the omission of an issue from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record;**

(6) a short statement of the relief sought[. A]; and

(7) a copy of the order or other determination to be reviewed, **which** shall be attached to the petition for review as an exhibit. [**The statement of objections will be deemed to include every subsidiary question fairly comprised therein.**]

No notice to plead or verification is necessary.

* * * * *

(e) *Content of original jurisdiction petition for review.* A petition for review addressed to an appellate court's original jurisdiction shall contain:

* * * * *

(4) a general statement of the material facts upon which the cause of action is based [**and**] ;

(5) a short statement of the relief sought[. **It shall also contain**]; and

(6) a notice to plead and [**be verified**] **verification** either by oath or affirmation or by verified statement.

(f) *Alternative objections.* Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be requested.

Official Note: The 2004 amendments to this rule clarify what must be included in a petition for review addressed to an appellate court's appellate jurisdiction and what must be included in a petition for review addressed to an appellate court's original jurisdiction. Where it is not readily apparent whether a "determination" (defined in [**Rule**] Pa.R.A.P. 102 as "[a]ction or inaction of a government unit) is reviewable in the court's appellate or original jurisdiction, compliance with the requirements of [**Subdivisions**] **paragraphs** (d) and (e) is appropriate.

[**Subdivisions**] **Paragraphs** (a) and (b) reflect the provisions of [**Rule**] Pa.R.A.P. 501 (Any Aggrieved Party May Appeal), [**Rule**] Pa.R.A.P. 503 (Description of Public Officers), Section 702 of the Administrative Agency Law, 2 Pa.C.S. § 702 (Appeals), and Pa.R.C.P. **No.** 1094 (regarding parties defendant in mandamus actions).

* * * * *

[**Subdivisions**] **Paragraphs** (d) and (e) reflect the differences in proceeding in a court's original and appellate jurisdiction, while preserving the need for sufficient specificity to permit the conversion of an appellate document to an original jurisdiction pleading and vice versa should such action be necessary to assure proper judicial disposition. See also the notes to [**Rules**] Pa.R.A.P. 1501 and 1502. [**The paragraph regarding the notice to participate was formerly found in Rule 1514(c).**]

[Explanatory Comment—1979

The note is expanded to reflect the fact that the Department of Education does not defend its decisions in teacher tenure appeals from local school districts.

Explanatory Comment—2011

With respect to the general statement of objections in an appellate jurisdiction petition for review required in subdivision (d)(5), see *Maher v. Unemployment Comp. Bd. of Review*, 983 A.2d 1264, 1266 (Pa. Cmwlth. 2009).]

Official Note: The 2014 amendments to Pa.R.A.P. 1513(d) relating to the general statement of objections in an appellate jurisdiction petition for review are intended to preclude a finding of waiver if

the court is able, based on the certified record, to address an issue not within the issues stated in the petition for review but included in the statement of questions involved and argued in a brief. The amendment neither expands the scope of issues that may be addressed in an appellate jurisdiction petition for review beyond those permitted in Pa.R.A.P. 1551(a) nor affects Pa.R.A.P. 2116's requirement that "[n]o question will be considered unless it is stated in the statement of questions involved [in appellant's brief] or is fairly suggested thereby."

Explanatory Comment

The Committee proposes to amend and reorganize Pennsylvania Rule of Appellate Procedure 1513(d) and (e) regarding appellate jurisdiction petitions for review. The amendment to subparagraph (d)(5) is intended to minimize the likelihood of inadvertent waiver of otherwise properly preserved issues due to a defect in the required general statement of objections to the order or other determination. The reorganization of (d) and (e) highlights the required elements of appellate and original jurisdiction petitions for review. The reasons for the proposed amendments follow.

The petition for review contemplated in Pa.R.A.P. 1513(d) often serves the same function as a notice of appeal under Chapter Nine of the Rules of Appellate Procedure, but the rule requires that the filing party provide substantially more information than a notice of appeal. Among the reasons for the additional detail required are that: 1) the appellate courts may need the additional detail, for example, for the Commonwealth Court to determine whether the petition for review is more properly addressed to its original jurisdiction, or for conversions in the Supreme Court, such as filings under the Gaming Control Act; and 2) if the appellate court determines that the petition is more properly addressed to its original jurisdiction, the additional detail is needed in order to allow the respondent to answer and thereby frame the issues to be decided. Pa.R.A.P. 1513(d)(5) requires a general statement of the objections to the order or other determination, that is, a sufficiently specific statement so as to preserve and present all issues to be raised on appeal. This requirement has been interpreted to mean that the statement must be more than a mere restatement of the court's standard of review. Commentators have noted that this aspect of preparing an appellate petition for review is problematic and that case law over the years has not been entirely consistent as to the detail required in a general statement of objections. G. Darlington, K. McKeon, D. Schuckers & K. Brown, Pennsylvania Appellate Practice § 1513:9 (West 2013-2014).

Case law requires more than mere generic allegations of error and there is some concern that the requirement of a general statement of objections can result in a waiver of issues that had otherwise been properly preserved in the underlying agency proceeding. Pa.R.A.P. 1513(d)(5) currently provides that "[t]he statement of objections will be deemed to include every subsidiary question fairly compromised therein," and there is inherent subjectivity in determining whether, in fact, the general statement is general enough to preserve all issues on the one hand or too general to preserve any issues on the other hand. Because the decision as to whether the general statement has failed to raise issues can be subjective, the Committee believes that fundamental fairness mitigates against application of a strict waiver doctrine at this very preliminary stage of an appellate proceeding, particularly since

the agency will have written its opinion before the petition for review is filed. In order to avoid this possibility, the Committee proposes that Pa.R.A.P. 1513(d)(5) be amended to add that "omission of an issue from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record."

The Committee further proposes that the Supreme Court rescind the language regarding preservation of issues "fairly subsumed" in the general statement. The Committee proposes to rescind this language because it is inconsistent with the proposed amendment to Pa.R.A.P. 1513(d)(5). The Committee also proposes some minor reorganization to Pa.R.A.P. 1513(d) and 1513(e) for clarification purposes and deletion of the 1979 and 2011 Explanatory Comments as no longer necessary.

[Pa.B. Doc. No. 14-705. Filed for public inspection April 4, 2014, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 19]

Order Amending Rule 1925 of the Rules of Appellate Procedure; No. 241 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 18th day of March, 2014, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice:

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Appellate Procedure 1925 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective April 18, 2014.

Annex A

TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1925. Opinion in Support of Order.

* * * * *

(b) *Direction to file statement of errors complained of on appeal; instructions to the appellant and the trial court.*—If the judge entering the order giving rise to the notice of appeal ("judge") desires clarification of the errors complained of on appeal, the judge may enter an order directing the appellant to file of record in the trial court and serve on the judge a concise statement of the errors complained of on appeal ("Statement").

(1) *Filing and service.*—Appellant shall file of record the Statement and concurrently shall serve the judge. Filing of record and service on the judge shall be in person or by mail as provided in Pa.R.A.P. 121(a) and shall be complete on mailing if appellant obtains a United States Postal Service Form 3817, Certificate of Mailing, or other similar United States Postal Service form from

which the date of deposit can be verified[,] in compliance with the requirements set forth in Pa.R.A.P. 1112(c). Service on parties shall be concurrent with filing and shall be by any means of service specified under Pa.R.A.P. 121(c).

(2) *Time for filing and service.*—The judge shall allow the appellant at least 21 days from the date of the order’s entry on the docket for the filing and service of the Statement. Upon application of the appellant and for good cause shown, the judge may enlarge the time period initially specified or permit an amended or supplemental Statement to be filed. **Good cause includes, but is not limited to, delay in the production of a transcript necessary to develop the Statement so long as the delay is not attributable to a lack of diligence in ordering or paying for such transcript by the party or counsel on appeal.** In extraordinary circumstances, the judge may allow for the filing of a Statement or amended or supplemental Statement [**nunc pro tunc**] **nunc pro tunc.**

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[Pa.B. Doc. No. 14-706. Filed for public inspection April 4, 2014, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEHIGH COUNTY

Clerk of Orphans’ Court Division; Fee Schedule; File No. AO2014-0001

Administrative Order

Now, this 19th day of March, 2014, upon consideration of the motion of the Clerk of the Orphans’ Court Division,

It Is Ordered pursuant to 42 P.S. § 21032.1 that the Fee Schedule for the Clerk of the Orphans’ Court Division that follows hereto and incorporated herein by this reference, is approved, and the charges set forth therein shall be the fees for services rendered by the said Clerk of the Orphans’ Court Division.

It Is Further Ordered that said Fee Schedule is effective May 1, 2014 and shall supersede any and all previously established fee schedules for the transaction of business with the Clerk of the Orphans’ Court Division.

It Is Further Ordered that the District Court Administrator shall file seven (7) certified copies of this Order with the Administrative Office of the Pennsylvania Courts and shall file two (2) certified copies the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that the Clerk of the Orphans’ Court Division shall cause a copy of the annexed Fee Schedule to be published in the *Lehigh Law Journal*.

By the Court

CAROL K. MCGINLEY,
President Judge

SCHEDULE OF FEES

Clerk of the Orphans’ Court Lehigh County

ADOPTIONS—PARENTAL TERMINATIONS

Report of Intention to Adopt	25.00
Counseling Fund Fee	75.00

Adoption Petition/Gestational Birth Carrier Petition	100.00
Involuntary Term/Voluntary Relinquishment Petitions	75.00
Foreign Adoption Registration IR3 Visa (no hearing)	75.00
Foreign Adoption Registration/Re-Adoption IR4 Visa (hearing)	100.00
Adoption Search	100.00
Reprinted Adoption Certificate	15.00

ADOPTION INVESTIGATION FEES

Adoptive Parents Only	350.00
Adoptive Parents and Biological Parents interviewed within Lehigh County or within fifty (50) mile radius	450.00
Adoptive Parents and if one or both biological parents interviewed reside outside fifty (50) mile radius	500.00

GUARDIANSHIP OF INCAPACITATED PERSON/MINORS

Petition for Determination of Incapacity (includes 1 certified copy of final decree)	110.00
Petition for Appt of Guardian of Person of Minor	50.00
Guardian Certificate	10.00
Will Inspection	10.00
Guardian’s Inventory	15.00
Guardian’s Inventory (Supplemental)	10.00
Petition for Review Hearing	25.00
Additional Petition Filed (e.g. sale of ward’s realty)	10.00

MARRIAGE LICENSES

Marriage Application	50.00
Certified Copy Marriage Record	10.00
Exemplification of Marriage Record	50.00
Certification of No Marriage	10.00
Petition for Court Approval—Applicant Under 16 years	25.00
Waiver of 3 Day Waiting Period	10.00
Search Fee {Marriage/Birth/Death/O. C.}	25.00
Reprinted Marriage License	15.00
Completion of out of state ML application	25.00

FORMAL ACCOUNTS—EXCLUDING Charitable Trusts

Insolvent Estates	100.00
<i>Filing fee is calculated on the gross estate</i>	
<i>Valuation of Gross Estate</i>	<i>Cost</i>
1 to 300,000	200.00
300,001 to 500,000	300.00
500,001 to 750,000	400.00
750,001 to 1,000,000	500.00
1,000,001 to 2,000,000	600.00
For each succeeding \$500,000 or fraction thereof over \$2,000,000 add an additional \$100	

FORMAL ACCOUNT OF CHARITABLE TRUSTS OR FOUNDATIONS

Carrying Value of Trust Principal	Filing Fee determined by Account Period			
	1-24 months	24+ months to 48 months	48+ months to 60 months	60+ months
Up to 5,000,000	\$750	\$1,125	\$1,675	\$2,450
5,000,001 to 15,000,000	\$1,000	\$1,500	\$2,250	\$3,250
15,000,001 to 25,000,000	\$1,500	\$2,250	\$3,375	\$4,875
25,000,001 to 50,000,000	\$2,250	\$3,375	\$5,075	\$7,300
50,000,001 or more	\$3,250	\$4,875	\$7,300	\$10,575

This scheduled does NOT apply to charitable remainder trusts during the lifetimes of non-charitable beneficiaries

Amended Petition for Distribution	25.00	Power of Attorney	25.00
Answer/Reply to any Petition	25.00	Returned Check Charge (separate check)	20.00
Appeal to Appellate Court	125.00	Small Estate Petition	50.00
Automation Fee ¹	5.00	Subpoena	10.00
Appeal to Appellate Court ²	125.00	Will Contest Proceeding	100.00
Certified copy of any document	10.00	¹ This \$5.00 fee imposed pursuant to 42 P. S. § 2102.1, is in addition to the OC filing fee, the LCE fee and the JCS fee, regarding all initial filings.	
Claim, Notice of,	25.00	² In addition to the stated Orphans' Court fee there are appellate filing fees imposed by the Superior and Supreme Courts. That fee, payable to the appropriate appellate court by separate check, must accompany the requisite notice of appeal and OC filing fee. Counsel is urged to contact the appellate court to obtain the correct appellate filing fee.	
Copies/ per page (photocopies, microfiche copies or copies from scanned images)	.25	³ This is a statutorily created fee imposed upon "first filings in petitions concerning adoptions, incapacitated persons, estates of minors and inter vivos trusts." 42 P. S. § 3733. Effective December 8, 2009, the JCS fee was increased from \$10.00 to \$23.50. This \$23.50 JCS fee is in addition to the OC filing fee, the LCE fee and the Automation fee.	
Corporate Fiduciary Power/Sureties Current Certificate	10.00	⁴ Imposed upon all initial filings pursuant to 42 P. S. § 2102.1.	
Disclaimer/Renunciation	25.00	⁵ A filing fee in an amount equal to that of the most similar pleading will be assessed regarding pleadings not specifically enumerated in the fee schedule.	
Exercise of Elective Share rights	25.00	A 2.9% service charge will be assessed for payment by credit/debit cards. (MasterCard, Visa, Discover)	
Exceptions	25.00	[Pa.B. Doc. No. 14-707. Filed for public inspection April 4, 2014, 9:00 a.m.]	
Exemplification	50.00		
Informal Account	75.00		
Judicial Computer System ³	23.50		
Lehigh County E-filing fee ⁴	5.00		
Minors' Compromise Order (time-stamped copy of Order filed in Civil Division)	25.00		
Minors' Compromise Petition + Order (No action commenced in Civil Division)	50.00		
Miscellaneous Transactions ⁵	****		
Objections	25.00		
Petition {Contested}	100.00		
Petition {Uncontested}	50.00		