

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 89]

Adopting Amendments to the Rules and Procedures of the Board relating to Continuing Education Requirements Before Reinstatement; Order No. 49

In this Order, The Disciplinary Board of the Supreme Court of Pennsylvania is adopting amendments to its Rules of Organization and Procedure to clarify the existing provision in the Rules of the Board at 204 Pa. Code § 89.279 regarding the continuing legal education courses that must be completed before a petition for reinstatement is filed.

A formerly admitted attorney who has been disbarred or suspended for more than one year or who has been on inactive status for more than three years is required by 204 Pa. Code § 89.279(a) to complete a minimum number of continuing legal education courses before petitioning for reinstatement. When that requirement was adopted, it was at a time when the Pennsylvania Continuing Legal Education Board had not yet been established. As a result, the current rule refers only to courses offered by the Pennsylvania Bar Institute. The rule amendments adopted by this Order eliminate the reference to the Pennsylvania Bar Institute so that courses offered by other providers approved by the Continuing Legal Education Board may also be accepted by the Disciplinary Board. In order to give the Disciplinary Board flexibility to adjust its requirements to the courses being offered at the time, the rule amendments adopted by this Order also eliminate from § 89.279(c) the list of course subjects that must be taken.

A Notice of Proposed Rulemaking regarding the changes being adopted by this Order was published in the *Pennsylvania Bulletin* on August 3, 1996. No comments were received in response.

The Disciplinary Board of the Supreme Court of Pennsylvania hereby finds that the amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Rule 205(c)(10) of the Pennsylvania Rules of Disciplinary Enforcement, orders:

(1) Title 204 of the Pennsylvania Code is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin* and shall

apply to all reinstatement proceedings thereafter commenced and, insofar as just and practical, to proceedings pending at the time.

(4) This order shall take effect immediately.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE

REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS

§ 89.279. Evidence of competency and learning in law.

(a) *General rule.* Except as provided in subsection (b), in order to permit the Board to determine under Enforcement Rule 218 (relating to reinstatement) whether a formerly admitted attorney who has been disbarred or suspended for more than one year or who has been on inactive status for more than three years possesses the competency and learning in the law required for reinstatement to practice in this Commonwealth, such a formerly admitted attorney shall within one year preceding the filing of the petition for reinstatement take (and prior to hearing on the petition, complete) courses [**or lectures**] meeting the requirements of the current schedule [**of subjects**] published by the Office of the Secretary under subsection (c).

* * * * *

(c) [*Schedule of subjects*] **Publication of schedule.** At least annually the Office of the Secretary shall publish in the *Pennsylvania Bulletin* a schedule of the minimum [**number and type of Pennsylvania Bar Institute courses and lectures which**] amount, type and subjects of continuing legal education courses that will satisfy the requirements of subsection (a). [**Except as otherwise provided in the currently published schedule, courses or lectures on the following subjects will satisfy the requirements of subsection (a):**

(1) **Estate planning, creditor's remedies and bankruptcy, civil litigation, business law, administration of estates, consumer transactions, real estate transactions, and family law; or**

(2) **in place of any two of the courses or lectures in the preceding paragraph, criminal procedure, or criminal trial techniques.]**

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[Pa.B. Doc. No. 97-73. Filed for public inspection January 17, 1997, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index and Judicial Salaries Under Act 51 of 1995; No. 179; Doc. No. 1

[Correction]

A per curiam Order and Annex A were published at 26 Pa.B. 5881 (December 7, 1996). Section 211.1 is corrected as set forth below. The balance of the document was correct as published earlier.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

(a) Pursuant to Article V, Section 10(c) of the Pennsylvania Constitution and Section 1721 of the Judicial Code, 42 Pa.C.S. § 1721, the Supreme Court of Pennsylvania has authorized the Court Administrator to obtain and publish in the *Pennsylvania Bulletin* the percentage of increase in the Consumer Price Index for the most recent 12-month period and the judicial salaries effective January 1, 1997, as required by Act 51 of 1995, amending the Public Official Compensation Law, Act of September 30, 1983 (P. L. 160, No. 39), 65 P. S. § 366.1 et seq. See, No. 1 Judicial Administration Docket No. 179.

(b) The Court Administrator of Pennsylvania reports that the percentage of increase in the Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD, Consumer Price Index for All Urban Consumers (CPI-U), for the 12-month period ending September 30, 1996, was 2.6 percent. (See, U. S. Department of Labor, Bureau of Labor Statistics, Series CUURA102SAO, Wednesday, October 21, 1996.)

[Pa.B. Doc. No. 96-2051. Filed for public inspection December 6, 1996, 9:00 a.m.]

PENNSYLVANIA COMMISSION ON SENTENCING

[204 PA. CODE CH. 303]

Proposed Offense Gravity Scores for New Offenses and Drug Offenses

The Pennsylvania Commission on Sentencing is hereby

Table 1: Proposed offense gravity scores for new/amended offenses

TITLE	SECTION	OFFENSE	OLD STATUTORY GRADE	NEW STATUTORY GRADE	PROPOSED OGS	1996 REGULAR SESSION	EFFECTIVE DATE
18	907	Possessing instruments of crime					
	(c)	Unlawful body armor	new	F3	5	Act 1996-98	Sep. 9, 1996

submitting proposed offense gravity scores (OGS) for new and amended offenses passed by the legislature during 1996. These proposed scores are for offenses that were not included in the proposed guideline revisions that were published in the July 20, 1996 edition (vol. 26, No. 29) of the *Pennsylvania Bulletin* and were the subject of public hearings in the Fall of 1996.

The Commission is also proposing four changes to the recommendations for drug offenses: 1) that the exception for prescription pills be limited to Schedule II drugs (rather than for all schedules) for convictions under 35 P. S. § 780-113(a)(12); 2) that the categories for prescription pills be changed to align them better with the weight categories; 3) that the offense gravity score for convictions under 35 P. S. § 780-113(a)(12), (14) and (30) involving a schedule V drug be raised from 1 to 3 to make it consistent with the recommendation for simple possession; and 4) that the threshold for the lowest quantity of drugs be lowered from 2.5 grams to 1 gram for convictions under 35 P. S. § 780-113(a)(12), (14) and (30) when the drug is heroin.

The procedure for amending the guidelines is mandated by 42 Pa.C.S. § 2155. This statute requires that all changes to the guidelines be published and that public hearings be held no sooner than thirty days and no later than sixty days from the date of this publication. The Commission will be holding a public hearing for persons to testify on the proposed changes at the following location:

Harrisburg Friday, February 21st, 1997 at 9:00 a.m.
 Penn State Downtown Center
 Room 101
 234 North Front Street

Arrangements to testify can be made by contacting the Commission via phone (814) 863-2797 (extension 1), fax (814) 865-0861 or E-mail (CWD2@psu.edu). Written testimony should be addressed to Dr. John Kramer, Executive Director, Commission on Sentencing, P. O. Box 1200, State College, PA 16804. Persons who are testifying are requested to bring 30 copies of their testimony to the public hearing.

The Commission will evaluate the proposed offense gravity scores for these offenses after consideration of the testimony and comments received. The proposed scores adopted by the Commission will then be incorporated into the entire package of proposed revisions and submitted to the General Assembly for its review, by publication in the *Pennsylvania Bulletin*. At that time, the proposed amendments would become effective within 90 days of their submission unless rejected by concurrent resolution by the legislature.

SENATOR DAVID W. HECKLER,
Chair

TITLE	SECTION	OFFENSE	OLD STATUTORY GRADE	NEW STATUTORY GRADE	PROPOSED OGS	1996 REGULAR SESSION	EFFECTIVE DATE
18	2702(a)(6)	Aggravated assault (fear SBI)	new	F2	6	Act 1996-7	Apr. 23, 1996
18	3304	Criminal mischief					
	(b)	>\$150 under (a)(4)	new	M3	1	Act 1996-198	Feb. 18, 1997
18	3929	Retail theft					
	(b)(1)(v)	>\$2,000, firearm, motor vehicle	new	F3	5	Act 1996-200	Feb. 18, 1997
18	3930	Theft of trade secrets				Act 1996-128	Dec. 16, 1996
	(a)		F3	F2	7		
	(b)		M1	F3	5		
18	4105	Bad checks				Act 1996-201	Feb. 18, 1997
	(c)(1)(ii)	\$200-<\$500	S	M3	1		
	(c)(1)(iii)	\$500-<\$1,000	S/M2	M2	2		
	(c)(1)(iv)	\$1,000-<\$75,000	M2	M1	3		
	(c)(1)(v)	\$75,000 or more	M2	F3	5		
	(c)(2)*	3rd/sub. <\$75,000	M2	M1	3		
	(c)(2)*	3rd/sub.>\$75,000 or more	M2	F3	5		
18	4107	Deceptive/fraud. bus. practices				Act 1996-145	Feb. 3, 1997
	(a.1)(1)(i)	>\$2,000	M2	F3	5		
	(a.1)(1)(ii)	\$200-\$2,000	M2	M1	3		
	(a.1)(1)(iii)	<\$200	M2	M2	2		
	(a.1)(1)(iv)	amount unknown	M2	M2	2		
	(a.1)(3)(i)	>\$2,000, victim 60yrs. +	M2	F2	7		
	(a.1)(3)(ii)	\$200-\$2,000, victim 60yrs. +	M2	F3	5		
	(a.1)(3)(iii)	<\$200, victim 60yrs. +	M2	M1	3		
	(a.1)(3)(iv)	amount unknown, victim 60 yrs. +	M2	M1	3		
18	4116	Copying; recording devices				Act 1996-194	Feb. 18, 1997
	(g)(1)*	100 or more pictures; 1,000 or more recording devices	M1	F3	5		
	(g)(1)*	2nd; sub. conv.	M1	F2	7		
	(g)(2)*	any other violation	M1	M1	3		
	(g)(2)*	2nd; sub. conv.	M1	F3	5		
18	4116.1	Unlawful Operation of recording device in theater				Act 1996-194	Feb. 18, 1997

TITLE	SECTION	OFFENSE	OLD STATUTORY GRADE	NEW STATUTORY GRADE	PROPOSED OGS	1996 REGULAR SESSION	EFFECTIVE DATE
		1st violation	new	M1	3		
		2nd/sub. violation	new	F3	5		
18	4118	Washing titles [vehicles]	new	F3	4	Act 1996-11	May 20, 1996
18	4119	Trademark counterfeiting				Act 1996-128	Dec. 16, 1996
	(c)(1)		new	M1	3		
	(c)(2)	Previous conv. >\$100->\$1,000	new	F3	5		
		or >\$2,000-<\$10,000					
	(c)(3)	2 or more previous conv.					
		>1,000 items or >\$10,000	new	F2	7		
18	4913	Impersonating Notary Public	new	M1	3	Act 1996-11	May 20, 1996
18	6301	Corruption of minors					
	(a)(2)	Aid truancy, subseq. viol.	new	M3	1	Act 1996-98	Sep. 9, 1996
42	9793(e)	Failure to register [Megan's Law]	new	F3	6	Act 1996-46	May 22, 1996
75	7132	Prohibited activities, odometer				Act 1996-11	May 20, 1996
		first offense [subchapter D]	M3	F3	4		
		subsequent offense [subchapter	M1	F3	4		
75	7133	Permissible activities, odometer				Act 1996-11	May 20, 1996
		first offense [subchapter D]	M3	F3	4		
		subsequent offense [subchapter	M1	F3	4		
75	7134	Odometer disclosure requirements				Act 1996-11	May 20, 1996
		first offense [subchapter D]	M3	F3	4		
		subsequent offense [subchapter	M1	F3	4		
75	7135	Odometer mileage statement				Act 1996-11	May 20, 1996
		first offense [subchapter D]	M3	F3	4		

Crime 35 P. S. § 780-113(a)	Description	Grade	Offense Gravity Score
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (<2.5-<10 gms)	F	[8] 7
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (<2.5g)	F	6
	Schedule V	M	[1] 3
	Prescription Pills involving Schedule II drug (>100 pills)	F	10
	Prescription Pills involving Schedule II drug (51-100 pills)	F	9
	Prescription Pills involving Schedule II drug (21-[100] 50 pills)	F	[9] 8
	Prescription Pills involving Schedule II drug (10-20 pills)	F	[7] 6
	Prescription Pills involving Schedule II drug (1-9 pills)	F	[5] 6
	Schedule V	M	[1] 3
(14)	Delivery by Practitioner:		
	Heroin (1 gram-10 grams)	F	[6]/[8] 7
	Heroin (<1 gram)	F	6
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (<2.5-<10 gms)	F	[8] 7
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (<2.5g)	F	6
	Schedule V	M	[1] 3
(30)	Possession With Intent to Deliver (PWID):		
	Heroin (1 gram-10 grams)	F	[6]/[8] 7
	Heroin (<1 gram)	F	6
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (<2.5-<10 gms)	F	[8] 7
	Other Narcotics of Schedule I and II, Cocaine, PCP, Methamphetamine (<2.5g)	F	6
	Schedule V	M	[1] 3

NOTE: These proposed offense gravity scores (OGS) are an addendum to the proposed guideline changes that were published in the July 20, 1996 edition of the *Pennsylvania Bulletin* (vol. 26, No. 29)

[Pa.B. Doc. No. 97-74. Filed for public inspection January 17, 1997, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Damages for Delay

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 238. Damages for Delay in an Action for Bodily Injury, Death or Property Damage.

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ADDENDUM

The prime rate as set forth in the first edition of the *Wall Street Journal* for a particular year is the basis for

calculating damages for delay under Pa.R.C.P. 238 as revised November 7, 1988. The prime rate published in the first edition of the *Wall Street Journal* for each of the years specified is as follows:

<i>Date of Publication</i>	<i>Prime Rate</i>
January 2, 1980	15% to 15 1/2%
January 2, 1981	20 1/2% to 21 1/2%
January 4, 1982	15 3/4%
January 3, 1983	11% to 11 1/2%
January 3, 1984	11%
January 2, 1985	10 3/4%
January 2, 1986	9 1/2%
January 2, 1987	7 1/2%
January 4, 1988	8 3/4%
January 3, 1989	10 1/2%
January 2, 1990	10 1/2%
January 2, 1991	9 1/2% to 10%
January 2, 1992	6 1/2%
January 4, 1993	6%
January 3, 1994	6%
January 3, 1995	8 1/2%

<i>Date of Publication</i>	<i>Prime Rate</i>
January 2, 1996	8 1/2%
January 2, 1997	8 1/4%

By the Civil Procedural Rules Committee

EDWIN L. KLETT,
Chairperson

[Pa.B. Doc. No. 97-75. Filed for public inspection January 17, 1997, 9:00 a.m.]

**Title 255—LOCAL
COURT RULES**
CHESTER COUNTY

**Amendment of Local Orphans' Court Rule
L6.1A: Form; Additional Requirements; Style**

Order

And Now, December 30, 1996, we adopt the following Local Orphans' Court Rule L6.1A, effective immediately.

It will replace the present Local Rule L6.1A.

By the Court

LAWRENCE E. WOOD,
President Judge

Rule L6.1A. Form. Additional Requirements. Style.

(1) *Form in General.* Accounts shall be prepared in substantial conformity with forms approved by the Supreme Court of Pennsylvania.

(2) *Paper.* (No changes)

(3) An account shall have attached thereto a petition for adjudication and statement of proposed distribution.

(4) Accounts must conform to any additional requirements shown on accounts check lists which may be obtained from the Clerk of the Orphans' Court.

(5) Accounts not conforming to all requirements by the call of the audit list will be deferred.

[Pa.B. Doc. No. 97-76. Filed for public inspection January 17, 1997, 9:00 a.m.]
