

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 81 ]

#### Proposed Amendments to the Pennsylvania Rules of Professional Conduct Relating to Conflict of Interest—Client Lawyer Sexual Relationships

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (the “Board”) is considering recommending to the Supreme Court of Pennsylvania an amendment to the Comment to Pennsylvania Rule of Professional Conduct (“RPC”) 1.8, as set forth in Annex A.

#### EXPLANATORY REPORT

RPC 1.8(j) prohibits a lawyer from having sexual relations with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced. The rationale behind this rule is that a sexual relationship that starts after the commencement of legal representation may adversely influence the lawyer’s professional judgment and creates an impermissible personal conflict of interest. Comment (17) explains that a client-lawyer relationship is a fiduciary relationship at its heart, and is inherently unequal in that the lawyer holds the power. Thus, RPC 1.8(j) prohibits sexual relations between a lawyer and a client that start after commencement of the professional relationship due to the significant danger of harm to the client’s interests.

Recently, Pennsylvania’s disciplinary system has experienced an increase in “sex with clients” investigations where the matters involve sexual communications by way of “sexting” or similar communications, as opposed to actual physical relationships.

The Board is considering a proposal to amend comment (17) to RPC 1.8 to clarify and reinforce to the profession that lawyers have an ethical obligation to keep their relationships with clients professional, and that the current prohibition on “sexual relations” also includes sexual communications engaged in by a lawyer with a client after the commencement of representation and where no prior consensual relationship existed. The justification for the Rule’s ban on client sexual relations applies with equal force to prohibit sexual communications between lawyer and client, as the same danger of harm to the client’s interests exists.

Interested persons are invited to submit written comments, suggestions or objections by mail, email or facsimile to the Executive Office, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, facsimile number (717-231-3381), email address Dboard.comments@pacourts.us on or before September 26, 2023.

*By The Disciplinary Board of the  
Supreme Court of Pennsylvania*

JESSE G. HEREDA,  
*Executive Director*

## Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

##### Subchapter A. RULES OF PROFESSIONAL CONDUCT

#### § 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

#### CLIENT-LAWYER RELATIONSHIP

#### Rule 1.8. Conflict of Interest: Current Clients: Specific Rules.

\* \* \* \* \*

(j) A lawyer shall not have sexual relations with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced.

\* \* \* \* \*

#### Comment:

\* \* \* \* \*

#### *Client-Lawyer Sexual Relationships*

(17) The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer’s fiduciary role, in violation of the lawyer’s basic ethical obligation not to use the trust of the client to the client’s disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer’s emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interests and because the client’s own emotional involvement renders it unlikely that the client could give adequate informed consent, this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client. **For purposes of this Rule, “sexual relations” includes, but is not limited to, sexual communications with a client.**

(18) Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer’s ability to represent the client will be materially limited by the relationship. See Rule 1.7(a)(2).

(19) When the client is an organization, paragraph (j) of this Rule prohibits a lawyer for the organization (whether inside counsel or outside counsel) from having a sexual relationship with a constituent of the organization who supervises, directs or regularly consults with that lawyer concerning the organization's legal matters.

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[Pa.B. Doc. No. 23-1143. Filed for public inspection August 25, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BRADFORD COUNTY

#### Local Rules Governing Electronic Filing in Criminal and Juvenile Matters; No. 2019IR0009

##### Order

And Now, this 8th day of August, 2023, it is hereby Ordered and Decreed that Bradford County Court of Common Pleas adopts Local Rule of Criminal Procedure 576.1 Electronic Filing and Service of Papers, Local Rule of Juvenile Court Procedure—Delinquency Matters 205 and Local Rule of Juvenile Court Procedure—Dependency Matters 1205 governing electronic filing in criminal cases, juvenile delinquency and dependency cases respectively for the 42nd Judicial District as set forth hereafter and shall be effective September 18, 2023.

The Bradford County District Court Administrator is Ordered and Directed to do the following:

1) File one (1) copy of the local rules with the Administrative Office of Pennsylvania Courts via email to adminrules@pacourts.us.

2) Forward two (2) paper copies and one (1) electronic copy in a Microsoft Word format to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Publish the local rules on the court's website after publication in the *Pennsylvania Bulletin*.

4) Forward one (1) paper copy and/or (1) electronic copy in a Microsoft Word format for the publication *Bradford County Law Journal*.

5) File one copy of the local rules in the appropriate filing offices for public inspection and copying.

6) The effective date of the local rule shall be September 18, 2023 or 30 days after publication in the *Pennsylvania Bulletin* whichever occurs first.

By the Court

MAUREEN T. BEIRNE,  
President Judge

#### Bradford County Local Rule of Criminal Procedure Local Rule 576.1. Electronic Filing and Service of Legal Papers.

##### (A) General Scope and Purpose of the Rule

Pursuant to Pennsylvania Rule of Criminal Procedure 576.1, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in Bradford County, the 42nd Judicial District, as of September 18, 2023. The Administrative Office of Pennsylvania Courts and the

judicial district of Bradford County have agreed upon an implementation plan for PACFile in Bradford County.

##### (B) PACFile

(1) The exclusive system for electronic filing is the PACFile System, developed and administered by the Administrative Office of the Pennsylvania Courts and located on Pennsylvania's Unified Judicial System Web Portal.

(2) Pursuant to Pa.R.Crim.P. 576.1(D)(2), establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed on the PACFile system in any judicial district that permits electronic filing.

(3) Any party who declines to participate in the electronic filing system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the PACFile system, shall be permitted to file legal papers in a physical paper format and shall be served legal papers in a physical paper format by the Clerk of Courts and other parties, whether electronically filed or otherwise, as required by Pa.R.Crim.P. 576.

##### (C) Legal Papers

(1) "Legal papers" which may be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, copies of exhibits and attachments, but excluding:

(a) applications for search warrants;

(b) applications for arrest warrants;

(c) any grand jury materials, except the indicting grand jury indictment or the investigating grand jury presentment;

(d) submissions filed ex parte as authorized by law;

(e) submissions filed or authorized to be filed under seal; and

(f) exhibits offered into evidence, whether or not admitted, in a court proceeding.

(2) Third party filing of amicus briefs or other third party filings shall not be permitted to be filed electronically.

(3) The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings of legal papers regardless of the method of filing.

(4) Any legal paper submitted for filing to the Clerk of Courts in a paper ('hard-copy') format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by applicable rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to pdf and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.Crim.P. 576.1(C) and this rule.

##### (D) Filing Fees

Applicable filing fees shall be paid electronically through procedures established by the appellate courts and the Administrative Office of Pennsylvania Courts, and at the same time and in the same amount as required by statute, Court rule or order. In addition to the filing fees now applicable, an online payment convenience fee for use of the PACFile system shall be imposed. See 204 Pa. Code § 207.3.

(E) *Record on Appeal*

Electronically filed legal papers, and copies of legal papers filed in a paper format as provided in subsection (C)(4), shall become the record on appeal.

(F) *Confidential Information*

Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in a paper format.

**Bradford County Local Rule of Juvenile Court Procedure—Delinquency Matters****Rule 205. Electronic Filing and Service of Legal Papers.**(A) *General Scope and Purpose of the Rule*

Pursuant to Pennsylvania Rule of Juvenile Court Procedure 205, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in Bradford County, the 42nd Judicial District, as of September 18, 2023. The Administrative Office of Pennsylvania Courts and the judicial district of Bradford County have agreed upon an implementation plan for PACFile in Bradford County.

(B) *PACFile*

(1) The exclusive system for electronic filing is the PACFile System, developed and administered by the Administrative Office of the Pennsylvania Courts and located on Pennsylvania's Unified Judicial System Web Portal.

(2) Pursuant to Pa.R.J.C.P. 205(D)(2), establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed on the PACFile system in any judicial district that permits electronic filing.

(3) Any party who declines to participate in the electronic filing system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the PACFile system, shall be permitted to file legal papers in a physical paper format and shall be served legal papers in a physical paper format by the Clerk of Courts and other parties, whether electronically filed or otherwise, as required by Pa.R.J.C.P. 205.

(C) *Legal Papers*

(1) "Legal papers" which may be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, copies of exhibits and attachments, but excluding:

- (a) applications for search warrants;
- (b) applications for arrest warrants;
- (c) submissions filed or authorized to be filed under seal;
- (d) exhibits offered into evidence, whether or not admitted, in a court proceeding; and
- (e) submissions filed ex parte as authorized by law.

(2) The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings of legal papers regardless of the method of filing.

(3) Any legal paper submitted for filing to the Clerk of Courts in a paper ('hard-copy') format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by applicable rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to pdf and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.J.C.P. 205(C) and this rule.

(D) *Filing Fees*

Applicable filing fees shall be paid electronically through procedures established by the appellate courts and the Administrative Office of Pennsylvania Courts, and at the same time and in the same amount as required by statute, Court rule or order. In addition to the filing fees now applicable, an online payment convenience fee for use of the PACFile system shall be imposed. See 204 Pa. Code § 207.3.

(E) *Record on Appeal*

Electronically filed legal papers, and copies of legal papers filed in a paper format as provided in subsection (C)(3), shall become the record on appeal.

(F) *Confidential Information*

Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in a paper format.

**Bradford County Local Rule of Juvenile Court Procedure—Dependency Matters****Rule 1205. Electronic Filing and Service of Legal Papers.**(A) *General Scope and Purpose of the Rule*

Pursuant to Pennsylvania Rule of Juvenile Procedure 1205, Electronic Filing and Service of Legal Papers, electronic filing of legal papers through the PACFile electronic filing system is permissive in Bradford County, the 42nd Judicial District, as of September 18, 2023. The Administrative Office of Pennsylvania Courts and the judicial district of Bradford County have agreed upon an implementation plan for PACFile in Bradford County.

(B) *PACFile*

(1) The exclusive system for electronic filing is the PACFile System, developed and administered by the Administrative Office of the Pennsylvania Courts and located on Pennsylvania's Unified Judicial System Web Portal.

(2) Pursuant to Pa.R.J.C.P. 1205(D)(2), establishment of a PACFile account constitutes consent to participate in electronic filing, including acceptance of service electronically of any document filed on the PACFile system in any judicial district that permits electronic filing.

(3) Any party who declines to participate in the electronic filing system, or who is unable to electronically file or accept service of legal papers which were filed electronically, or who is otherwise unable to access the PACFile system, shall be permitted to file legal papers in a physical paper format and shall be served legal papers in a physical paper format by the Clerk of Courts and other parties, whether electronically filed or otherwise, as required by Pa.R.J.C.P. 1205.

(C) *Legal Papers*

(1) “Legal papers” which may be filed electronically shall encompass all written motions, written answers and any notices or documents for which filing is required or permitted, including orders, copies of exhibits and attachments, but excluding:

(a) submissions filed or authorized to be filed under seal.

(b) exhibits offered into evidence, whether or not admitted, in a court proceeding.

(c) Submissions filed ex parte as authorized by law.

(2) The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings of legal papers regardless of the method of filing.

(3) Any legal paper submitted for filing to the Clerk of Courts in a paper (‘hard-copy’) format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by applicable rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to pdf and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.J.C.P. 1205(C) and this rule.

(D) *Filing Fees*

Applicable filing fees shall be paid electronically through procedures established by the appellate courts and the Administrative Office of Pennsylvania Courts, and at the same time and in the same amount as required by statute, court rule or order. In addition to the filing fees now applicable, an online payment convenience fee for use of the PACFile system shall be imposed. See 204 Pa. Code § 207.3.

(E) *Record on Appeal*

Electronically filed legal papers, and copies of legal papers filed in a paper format as provided in subsection (C)(3), shall become the record on appeal.

(F) *Confidential Information*

Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential

information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in a paper format.

[Pa.B. Doc. No. 23-1144. Filed for public inspection August 25, 2023, 9:00 a.m.]

**Title 255—LOCAL COURT RULES****FAYETTE COUNTY****Victim Services Fee; No. 9 AD 2023****Administrative Order**

*And Now*, this 15th day of August 2023, it is hereby *Ordered* and *Decreed* that pursuant to the Crime Victims Act a person who pleads guilty or nolo contendere, who is convicted of a crime, or is placed in a diversionary program shall, in addition to costs imposed under 42 Pa.C.S. § 3571(c) (relating to Commonwealth portion of fines, etc.), pay costs of one hundred dollars (\$100.00).

Costs imposed shall be paid into the Crime Victim Services and Compensation Fund except that 70% of any costs which exceed \$60 shall be paid into a local victim services fund, established and administered by the county treasurer pursuant to 18 Pa. Stat. Ann. § 11.1101(b)(4). The county treasurer shall disperse money from a local victim services fund at the discretion of the county district attorney. The money in the local victim services fund shall be used only for victim services.

In accordance with Pa.R.J.A. 103(d), it is further *Ordered* that the Clerk of Courts shall distribute this Order to the Legislative References Bureau for publication in the *Pennsylvania Bulletin*, file one copy with the Administrative Office of Pennsylvania Courts, and the District Court Administrator shall publish this Order on the Fayette County website. The effective date of this Order shall be thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

STEVE P. LESKINEN,  
*President Judge*

[Pa.B. Doc. No. 23-1145. Filed for public inspection August 25, 2023, 9:00 a.m.]