

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.A.P. 107, 903, 905, 1113, and 1122

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.A.P. 107, 903, 905, 1113, and 1122 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

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

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

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All communications in reference to the proposal should be received by **March 2, 2026**. 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 Appellate Court Procedural Rules Committee,

Honorable Judith Ference Olson
Chair

Rule 107. Construction of Rules.

- (a) General Rule.** In the construction of the Pennsylvania Rules of Appellate Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.
- (b) Exception.** Pa.R.J.A. 107(b) shall not apply to the calculation of the three-day period for an appeal or a petition for allowance of appeal from an order in matters arising under the Pennsylvania Election Code.

Rule 903. Time for Appeal.

- (a) **General [rule] Rule.** Except as otherwise prescribed by this rule, the notice of appeal required by **[Rule] Pa.R.A.P.** 902 (manner of taking appeal) shall be filed within 30 days after the entry of the order from which the appeal is taken.
- (b) **[Cross appeals] Cross-Appeals.** Except as otherwise prescribed in subdivision (c) **[of this rule]**, if a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was served, or within the time otherwise prescribed by this rule, whichever period last expires.
- (c) **Special [provisions] Provisions.** Notwithstanding any other provision of this rule:
 - (1) An appeal from any of the following orders shall be taken within ten days after the entry of the order from which the appeal is taken:
 - (i) **[An] an** order changing venue or venire in a criminal proceeding. See **[Rule] Pa.R.A.P.** 311(a)(3) (change of criminal venue or venire)[.];
 - (ii) **[An order in any matter arising under the Pennsylvania Election Code.] rescinded;**
 - (iii) **[An] an** order in any matter arising under the Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.
 - (2) **[Where] If** an election has been filed under **[Rule] Pa.R.A.P.** 311(b) (order sustaining venue or personal or in rem jurisdiction), the notice of appeal shall be filed within 30 days after the filing of the election.
 - (3) In a criminal case in which no post-sentence motion has been filed, the notice of appeal shall be filed within 30 days of the imposition of the judgment of sentence in open court.
 - (4) **An appeal from an order in matters arising under the Pennsylvania Election Code shall be taken within three days after the entry of the order.**

Comment: 42 Pa.C.S. § 5571(a) (appeals generally) provides that the time for filing an appeal, a petition for allowance of appeal, a petition for permission to appeal or a petition for review of a quasi-judicial order, in the Supreme Court, the Superior Court or the Commonwealth Court shall be governed by general rules and that no other provision of 42 Pa.C.S. Ch. 55D shall be applicable to such matters. In order to prevent inadvertent legislative creation of nonuniform appeal times, 42 Pa.C.S. § 1722(c) (time limitations) expressly authorizes the suspension by general rule of nonuniform statutory appeal times. See also 42 Pa.C.S. § 5501(a) (scope of chapter), which makes Chapter 55 (limitation of time) of the Judicial Code subordinate to any other statute prescribing a different time in the case of an action or proceeding, but which does not so provide in the case of an appeal.

Thus, on both a statutory and constitutional basis, this rule supersedes all inconsistent statutory provisions prescribing times for appeal.

As to **[Subdivision] subdivision** (b), compare 42 Pa.C.S. § 5571(f) (cross appeals).

A party filing a cross appeal pursuant to subdivision (b) should identify it as a cross-appeal in the notice of appeal to assure that the prothonotary will process the cross-appeal with the initial appeal. **[See also Rule] See also Pa.R.A.P. 511** (cross-appeals), **[Rule] Pa.R.A.P. 2113** (reply brief), **[Rule] Pa.R.A.P. 2136** (briefs in cases involving cross-appeals), **[Rule] Pa.R.A.P. 2185** (service and filing of briefs) and **[Rule] Pa.R.A.P. 2322** (cross and separate appeals).

In Re Petition of the Board of School Directors of the Hampton Township School District, 688 A.2d 279 (Pa. Cmwlth. 1997), the Commonwealth Court panel held that **[Rule] Pa.R.A.P. 903(b)** does not extend the appeal period for any other party to file an appeal unless the party is “adverse.” Under the 2002 amendment to **[Rule] Pa.R.A.P. 511**, the requirement that a party be adverse in order to file a cross-appeal **[is] was** eliminated. Once a notice of appeal is filed by one party, any other party may file a cross-appeal within **[fourteen] 14** days.

Rule of Appellate Procedure 107(a) incorporates by reference the rules of construction in the Pennsylvania Rules of Judicial Administration, Pa.R.J.A. 104-115. See Pa.R.J.A. 107(a)-(b) relating to computation of time for the rule of construction relating to (1) the exclusion of the first day and inclusion of the last day of a time period and (2) the omission of the last day of a time period which falls on Saturday, Sunday or legal holiday.

See **[Rule] Pa.R.A.P. 108** (date of entry of orders) and Explanatory Comment--2007 thereto, **[Rule] Pa.R.A.P. 301(a)(1)** and **(2)** (entry upon docket below), and Pa.R.Crim.P. 462, 720, and 721 governing criminal appeals.

The timing and substance of other procedural requirements of appeals from orders in matters arising under the Pennsylvania Election Code may be subject to a case management order or rule.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—2001

The 2001 amendment to Subdivision (c) clarifies that the appeal period for appealing from orders in civil cases sustaining venue or personal or in rem jurisdiction runs from the date of the election under Pa.R.A.P. 311(b)(1), not the date of the original order. The 2000 amendment extends the appeal period following such an election from ten days to thirty days to conform the appeal period for civil orders changing venue pursuant to Pa.R.A.P. 311(c).

The portion of the Note suggesting the necessity of taking an appeal within the 20 day pleading period is misleading and is deleted. For this reason, the bracketed material of the Note is deleted.

Explanatory Comment--2002

See Comment following Pa.R.A.P., Rule 511.

Rule 905. Filing of Notice of Appeal.

(a) Filing with [clerk] Clerk.

- (1) Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Pa.R.A.P. 906, shall be filed with the clerk of the trial court. If the appeal is to the Supreme Court, the jurisdictional statement required by Pa.R.A.P. 909 shall also be filed with the clerk of the trial court.
- (2) If the appeal is a children's fast track appeal, a concise statement of errors complained of on appeal as described in Pa.R.A.P. 1925(a)(2) shall be filed with the notice of appeal and served on the trial judge in accordance with Pa.R.A.P. 906(a)(2).
- (3) Upon receipt of the notice of appeal, the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall be shown on the docket.
- (4) If a notice of appeal is mistakenly filed in an appellate court, or is otherwise filed in an incorrect office within the unified judicial system, the clerk shall immediately stamp it with the date of receipt and transmit it to the clerk of the court which entered the order appealed from, and upon payment of an additional filing fee the notice of appeal shall be deemed filed in the trial court on the date originally filed.
- (5) A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.

(b) Transmission to [appellate court] Appellate Court.

- (1)** The clerk shall immediately transmit to the prothonotary of the appellate court named in the notice of appeal a copy of the notice of appeal and all attachments, as well as a receipt showing collection of any docketing fee in the appellate court required under **[paragraph] subdivision** (c).
- (2)** If the appeal is a children's fast track appeal, the clerk shall:

- (i)** stamp the notice of appeal with a "Children's Fast Track" designation in red ink, advising the appellate court that the appeal is a children's fast track appeal[, and the clerk shall also]
 - (ii)** transmit to the prothonotary of the appellate court named in the notice of appeal:
 - (A) the concise statement of errors complained of on appeal required by [subparagraph] **subdivision (a)(2) [of this rule. The clerk shall also transmit with such documents:]**
 - ([1]B) copies of all orders for transcripts relating to orders on appeal;
 - ([2]C) a copy of any verified statement, application, or other document filed under Pa.R.A.P. 551-561 relating to *in forma pauperis*; and
 - ([3]D) if the appeal is to the Supreme Court, the jurisdictional statement required by Pa.R.A.P. 909.
- (c)** **Fees.** The appellant upon filing the notice of appeal shall pay any fees therefor (including docketing fees in the appellate court) prescribed by Chapter 27.
- (d)** **Election Appeals. To ensure appropriate expedition of an election appeal in matters arising under the Pennsylvania Election Code,**
 - (1)** **the trial court shall notify the parties of the three-day appeal period in its order; and**
 - (2)** **the appellant should deliver a time-stamped copy of the notice of appeal to the appellate court immediately after the notice of appeal is filed with the trial court pursuant to subdivision (a)(1).**

[Official Note] Comment:

To preserve a mailing date as the filing date for an appeal as of right from an order of the Commonwealth Court, see Pa.R.A.P. 1101(b).

To determine the number of copies to be filed, see Pa.R.A.P. 124(c) **[and its Official Note]**. The appellate court portion of the filing fee will be transmitted pursuant to regulations adopted under 42 Pa.C.S. § 3502.

Subdivision (d) recognizes that some appeals of matters arising under the Pennsylvania Election Code require expedited treatment. To aid the appellate court, appellants are strongly encouraged under subdivision (d)(2) to forward a copy of the notice of appeal to the appellate court immediately after its filing in the trial court so that the appellate court can commence the appeal in an expedited manner.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—1979

The appellate prothonotaries have reported that on numerous occasions an appeal is taken in the lower court, the appellant fails to docket the appeal, the appellee fails to move for dismissal under Rule 1971, and a record arrives in the appellate court without prior notice to the court. Hereafter a duplicate set of appeal papers will be filed in the lower court and the clerk of the lower court will collect the appellate docketing fee and notify the appellate prothonotary of the taking of an appeal by transmitting one copy of the appeal papers. The appeal will thus be self-docketing and Rule 1971 is rescinded as obsolete. Among other things, this procedure will facilitate the *sua sponte* dismissal of out of time appeals, since the appellate court will immediately know the date the appeal was taken. In order to permit the appellate prothonotary to contact the parties or counsel, a new requirement is added that copies of the proof of service be furnished to the clerk of the lower court at the time the appeal is filed. A related temporary provision governing the internal transmission of the docketing fee to the appellate prothonotary is included in the Order adopting the amendments.

Rule 1113. Time for Petitioning for Allowance of Appeal.

(a) **General [rule] Rule.** Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

* * *

(b) **Cross-Petitions for Allowance of Appeal.** Except as otherwise prescribed in subdivision (c), if a timely petition for allowance of appeal is filed by a party, any other party may file a cross-petition for allowance of appeal within 14 days of the date on which the first petition for allowance of appeal was served, or within the time otherwise prescribed by this rule, whichever period last expires.

(c) **Special Provisions.** Notwithstanding any other provision of this rule, a petition for allowance of appeal from an order **[in any matter arising under any of the following]** shall be filed within **[ten days after the entry of the order sought to be reviewed]**:

- [1. **Pennsylvania Election Code.**
2. **Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.]**

(1) **Three days after the entry of the order in matters arising under the Pennsylvania Election Code.**

(2) **Ten days of the entry of the order in matters arising under the Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.**

* * *

Comment: See Pa.R.A.P. 903, cmt. (time for appeal).

Regarding subdivision (b), a party filing a cross-petition for allowance of appeal should identify it as a cross-petition to assure that the prothonotary will process the cross-petition with the initial petition. See also Pa.R.A.P. 511 (cross-appeals), Pa.R.A.P. 2136 (briefs in cases involving cross-appeals), and Pa.R.A.P. 2322 (cross- and separate appeals).

Unlike the Rules of Appellate Procedure governing cross-appeals as of right, the rules governing appeals by allowance do not contain an aggrievement standard. *Kramer v. Nationwide Property and Casualty Insurance Co.*, 313 A.3d 1031, 1042-44 (Pa. 2024). Thus, if a petition for allowance of appeal is filed challenging a final order of the Superior Court or the Commonwealth Court, and, in that order, the intermediate appellate court rules against the respondent on an issue, the respondent must file a cross-petition for allowance of appeal if the respondent wishes to seek discretionary review of that issue. If a respondent fails to timely file a cross-petition for allowance of appeal, and the Supreme Court reverses the judgment of the intermediate appellate court, the respondent's only recourse is to seek leave to file a *nunc pro tunc* cross-petition for allowance of appeal. *Kramer v. Nationwide Property and Casualty Insurance Co.*, 313 A.3d 1031, 1042-44, 1044 n.18 (Pa. 2024); *Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C. v. Law Firm of Malone Middleman, P.C.*, 137 A.3d 1247, 1260 (Pa. 2016) (Saylor, C.J., concurring); *id.* (Todd, J., concurring).

Regarding subdivision (d), an application for *nunc pro tunc* relief pursuant to Pa.R.A.P. 123 should contain averments and documentation in support of the request. Such an application may eliminate the need for a criminal defendant to vindicate the right to file a petition for allowance of appeal through post-conviction proceedings and preserve judicial resources. This method is available because the Supreme Court has recognized that a criminal defendant has a right to have counsel petition for allowance of appeal. Pa.R.Crim.P 120 and 122 require counsel to represent clients through all stages of a direct appeal, and this places on counsel an obligation to file a petition for allowance of appeal if the client requests one, and to represent the client in the Pennsylvania Supreme Court, if allowance of appeal is granted. Parties seeking *nunc pro tunc* relief must act promptly to assert such a right upon learning of the existence of the basis for such relief. See, e.g., *Commonwealth v. Bassion*, 568 A.2d 1316 (Pa. Super. 1990). Additionally, nothing in this rule is intended to expand upon the jurisdictional time limitations of the Post-Conviction Relief Act, 42 Pa.C.S. §§ 9541 et seq.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment—2002

See Comment following Pa.R.A.P., Rule 511.

Rule 1122. Allowance of Appeal and Transmission of Record.

If an appeal is allowed, the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order allowing the appeal to the prothonotary of the appellate court below and to each party who has appeared in the Supreme Court. The notice shall specify the question or questions which will be considered by the Supreme Court, if an appeal has been allowed as to less than all questions presented. The prothonotary of the appellate court below shall docket the notice in the same manner as a notice of appeal, and shall forthwith transmit the record to the Prothonotary of the Supreme Court, but for the purpose of computing time under these rules the record shall be deemed filed in the Supreme Court on the date of entry of the order allowing the appeal. A notice of appeal need not be filed.

[Note: This rule eliminates the little-known procedural “trap” whereby the number of days between the entry of the judgment below and the date of filing the petition for allowance of appeal is subtracted from the time available to the appellant for formal entry of the appeal after it has been allowed. See *Platt-Barber Co. v. Groves*, 193 Pa. 475, 44 Atl. 571 (1899). Under this rule the entry by the Supreme Court of the order allowing the appeal automatically perfects the appeal.]

Comment: The timing and substance of other procedural requirements of appeals of orders in matters arising under the Pennsylvania Election Code may be subject to a case management order or rule.

Historical Commentary

The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:

Explanatory Comment – 1979

A separate docket number in an appellate court when a petition for allowance of appeal or petition for permission to appeal has been granted is no longer required.

**SUPREME COURT OF PENNSYLVANIA
APPELLATE COURT PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Proposed Amendment of Pa.R.A.P. 107, 903, 905, 1113, and 1122

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court the amendment of Pennsylvania Rules of Appellate Procedure 107, 903, 905, 1113, and 1122 to expedite election appeals.

Previously, the Supreme Court has issued administrative orders to temporarily suspend or modify procedures to expedite election appeals. See Judicial Administration Docket No. 571 (April 5, 2022); Judicial Administration Docket No. 622 (August 27, 2024). The Committee initiated a review to determine whether such procedures should be codified within the Rules of Appellate Procedure.

A flexible approach acknowledged that not all appeals involving the Pennsylvania Election Code require expedited procedures. See e.g., *Kelly v. Commonwealth*, 240 A.3d 1255, 1263 (Pa. 2020) (Saylor, C.J., concurring and dissenting) (“I believe that, to the extent possible, we should apply more ordinary and orderly methods of judicial consideration, since far too much nuance is lost by treating every election matter as exigent and worthy of this Court’s immediate resolution.”) quoted in *Baxter v. Philadelphia Board of Elections*, 76 EM 2024, 77 EM 2024 (Dougherty, J., concurring statement).

Recognizing that some election matters need to be expedited, either for timely ballot preparation or for time certification of results, the Committee determined that the rules should provide a three-day appeal period for election matters and that the appellate court should receive notice of the appeal as soon as possible. While the Electoral College Reform Act does require expedited resolution of litigation during presidential election years, see 3 U.S.C. § 5(a)(1), the Committee believed that the three-day appeal period should be applied to all election cycles. Given that the three-day appeal period was included in the Supreme Court’s 2024 administrative order,¹ that shortened period was considered practicable by the Committee. Initiating appellate review as soon as practicable would subject the parties to the appellate court’s case management sooner as well.

To add a three-day filing period for both notices of appeal and petitions for allowance of appeal, the Committee proposes amending Pa.R.A.P. 903 and Pa.R.A.P.

¹ The 2022 administrative order provided for a five-day appellate window with temporary exception of Pa.R.A.P. 107.

1113, respectively. The Committee also proposes amending Pa.R.A.P. 107 to except the operation of Pa.R.J.A. 107(b), which excludes weekends and holidays as filing deadline dates, to appeals and petitions for allowance of appeal involving election matters. This exception was included in the Court's 2024 administrative order.

The proposal retains the current filing of the notice of appeal in the trial court, but adds a provision in Pa.R.A.P. 905 for the appellant to serve a time-stamped copy of the notice of appeal on the appellate court at the same time it is filed in the trial court. This is intended to aid the appellate court in expediting the appeal and is not intended to create an opportunity resulting in procedural default of the appeal should there be a failure to comply. However, there is no corollary amendment pertaining to petitions for allowance of appeal.

The Committee also proposes adding commentary to Pa.R.A.P. 903 and Pa.R.A.P. 1122 indicating the permissibility of case management orders or rules governing appeals of election matters. This commentary is intended to inform readers that those orders or rules would supersede the general rules.

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.