

THE SUPREME COURT OF FLORIDA MANUAL OF INTERNAL OPERATING PROCEDURES

INTRODUCTION

This manual of internal operating procedures is designed to: (1) assist practitioners; (2) orient new employees; (3) codify established practices and traditions; (4) protect and maintain the collegial decision-making process; and (5) make the judicial process more comprehensible to the general public. This manual neither supplants any of the Florida rules of court procedure nor creates any substantive or procedural rights. The Court continually reviews and improves internal procedures, and the manual is revised from time to time as new procedures are officially adopted. The latest version of this manual is always posted on the Court's website at http://www.floridasupremecourt.org/pub_info/documents/IOPs.pdf.

SECTION I. COURT STRUCTURE

A. Court Composition. The Supreme Court of Florida is composed of seven justices who serve terms of six years. Each justice, other than the chief justice, is authorized to employ three staff attorneys and one judicial assistant. The staff of the chief justice includes three staff attorneys, one of whom may serve as executive assistant to the chief justice; four judicial assistants; an inspector general and staff; a reporter of decisions; a director of the public information office and staff; and a central staff of attorneys, one of whom serves as the director of central staff, and a paralegal. Chambers for each justice, including the chief justice, are located on the fourth floor of the Supreme Court Building. Members of the public, including attorneys admitted to practice in Florida, are not permitted on the fourth floor unless they have obtained permission from a justice.

B. The Chief Justice. The chief justice is the administrative officer of the Court and the Florida judicial branch, responsible for the dispatch of the business of the Court and of the branch, and for directing the implementation of policies and priorities as determined by the Court for the operation of the Court and of the branch. The chief justice has the power to make temporary assignments of senior and active justices and judges to duty on any court for which they are qualified. The chief justice is chosen by a majority vote of the Court for a two-year term beginning in July of every even-numbered year and may serve successive terms limited to a total of eight years. The chief justice is selected

based on managerial, administrative, and leadership abilities, without regard to seniority only. The chief justice may be removed by a vote of four justices. Whenever the chief justice is unavailable, the most senior justice available becomes the acting chief justice and may exercise all of the powers of that office.

C. The Administrative Justice. The administrative justice is appointed by the chief justice and has the authority to act on routine procedural motions and other case-related matters which do not require action by a panel of justices. The administrative justice advises the clerk's office and other Court staff on procedural issues which may arise in cases filed before the Court. One justice may serve as both administrative justice and administrative writ justice.

D. The Administrative Writ Justice. The administrative writ justice is appointed by the chief justice and has the authority to direct that certain clearly defined types of writ petitions be transferred to a more appropriate court. One justice may serve as both administrative justice and administrative writ justice.

E. The Clerk. The clerk of the Supreme Court serves at the Court's pleasure and has administrative and clerical responsibilities. The clerk is authorized to appoint a chief deputy clerk, who may discharge the duties of the clerk during the clerk's absence, and such other deputy clerks as the Court deems necessary. The clerk also supervises the Court's systems administrators. The clerk's office receives all documents and other papers filed with the Court. Office hours are 8 a.m. to 5 p.m., ET, Monday through Friday. Case-related questions should be directed to the clerk's office rather than to the office of any justice or the central staff attorneys. The telephone number for the clerk's office is 850-488-0125.

Generally, all Court records are open to public inspection except the work product of the justices and their staffs, vote and remark sheets placed in individual case files, justice assignment records maintained by the clerk's office, portions of case records sealed by a lower court, case files which are confidential under the rules of the Court, and internal case management data. Access to the Court's public records is governed by Florida Rule of Judicial Administration 2.420.

The Court's online docket, all briefs, and case disposition orders are posted on the Supreme Court clerk's office website located at <http://www.floridasupremecourt.org/clerk/index.shtml>.

F. The Marshal. The marshal of the Supreme Court serves at the Court's pleasure, is empowered to execute process of the Court throughout the

state, and is the custodian of the Supreme Court Building, its furnishings, and grounds. The marshal is also responsible for Court security.

G. The Librarian. The librarian of the Supreme Court serves at the Court's pleasure. The Court's library is in the custody of the librarian, who has an assistant librarian, a technical services/documents librarian, an archivist, and an administrative assistant. The library uses a computerized cataloging system which is accessible to the public via the Court's website at <http://library.flcourts.org/>. The library is for the use of Court personnel at any time. Library hours for the public are from 8 a.m. to 5 p.m., ET, Monday through Friday.

H. State Courts Administrator. The Office of the State Courts Administrator has been created by the Court to serve the chief justice in carrying out his or her responsibilities as chief administrative officer of the Florida judiciary. The state courts administrator serves at the pleasure of the Court and is authorized with the approval of the Court to employ such assistants and clerical support personnel as are necessary.

I. Inspector General. The inspector general serves at the pleasure of the Court and reports directly to the chief justice. The inspector general is assigned specific duties and responsibilities for audit and investigation functions by section 20.055, Florida Statutes. The scope of these responsibilities encompasses the entire state courts system and includes advising in the development of performance measures, standards, and procedures for the evaluation of programs; reviewing actions taken to improve program performance and meet program standards; performing audits, investigations, and management reviews relating to programs and operations; recommending corrective actions; reviewing the progress made in implementing corrective action; and related duties.

J. Reporter of Decisions. The reporter of decisions serves at the pleasure of the Court and reports directly to the chief justice. The reporter of decisions reviews opinions prior to their release for technical and formal correctness, makes recommendations as to needed corrections, and coordinates the process of preparing opinions for release. The reporter of decisions works closely with the justices, their staffs, and the clerk's office in the process of releasing opinions to legal publishers, the press, and the public. The reporter of decisions assists the Court and clerk's office in the case management process and may also be assigned by the chief justice to assist the Court on various special projects.

K. Director of the Public Information Office. The director of the public information office serves at the pleasure of the Court and reports directly to

the chief justice. The director of the public information office serves as public information officer and public spokesperson for the Court; coordinates Court communications with news media and the public at large; serves as the chief justice's communications officer; assists all of the justices in their public communications and public activities as required; supervises the Court's website; coordinates the broadcast of Court arguments; coordinates public events as required by the chief justice; and supervises the staff of the public information office, including a deputy director and the Court's web administrator. Press inquiries about the Court and its work should be directed to the public information office at publicinformation@flcourts.org or 850-414-7641.

L. Director of Central Staff. The director of central staff serves at the pleasure of the Court and reports directly to the chief justice in coordinating the responsibilities and assignments of the Court's central staff attorneys and paralegal. The director of central staff is authorized to hire and supervise attorneys and a paralegal whose positions on central staff have been authorized by the chief justice. The central staff director is also responsible for coordinating the rule-making process, advises on the Court's Internship Program for Distinguished Florida Law Students, and has other administrative duties as assigned by the chief justice.

M. Central Staff. The Court's central staff attorneys and paralegal serve at the pleasure of the Court and report to the chief justice through the central staff director. One of the chief justice's judicial assistants and a paralegal provides support for the Court's central staff attorneys. The central staff attorneys analyze issues raised in original proceedings, see section II(C) of this manual, and certain motions; at the discretion of the assigned justice, assist with attorney discipline, bar admission, standard jury instructions, and rule-amendment cases; and perform other duties as determined by the chief justice or the Court as a whole.

SECTION II. INTERNAL PROCEDURE FOR HANDLING CASES

A. Mandatory Review.

1. Statutory or Constitutional Invalidity. Appeals involving decisions of the district courts of appeal holding invalid a state statute or a provision of the Florida Constitution are initially directed to the chief justice, once the briefs and record are filed, to determine if oral argument should be granted. If oral argument is granted, the case proceeds as described in section III(B) of this manual. If oral argument is denied, the case is sent to an assigned justice and the case proceeds in the same manner as a discretionary review case in which review has been granted

without argument. (See section II(B)(1)(d) of this manual.) If a justice deems it important to hear argument on a case previously assigned without argument, the chief justice will customarily honor the request. If there is a question about jurisdiction, an order to show cause will issue. If no response to the order to show cause is filed and after approval by the administrative justice, an order of dismissal will be issued by the clerk's office. If a response is filed, the case will be assigned to a panel for direction.

When a party files a notice seeking appeal, the clerk's office determines whether the case is subject to administrative dismissal based on a lack of jurisdiction. If the clerk's office determines that the case is subject to administrative dismissal, pursuant to guidelines established by the Court, the case is docketed and automatically dismissed. In such cases, no rehearing is allowed. The clerk's office will administratively dismiss those cases in which a party seeks appeal from an unelaborated per curiam decision. See Jackson v. State, 926 So. 2d 1262 (Fla. 2006).

2. Bond Validation Cases. Appeals of final judgments entered in proceedings for the validation of bonds or certificates of indebtedness are directed to the chief justice, once the briefs are filed, to determine whether oral argument is appropriate. If oral argument is denied, the case proceeds in the same manner as a discretionary review case in which review is granted without oral argument. (See section II(B)(1)(d) of this manual.) If oral argument is granted, the case proceeds as described in section III(B) of this manual.

3. Death Penalty Cases.

(a) Initial appeals involving the imposition of the death penalty and appeals from the denial of postconviction relief (other than appeals from successive motions from denials of postconviction relief which are treated in the same manner as a discretionary review case in which review is granted without oral argument), whether or not accompanied by a request for oral argument, are automatically placed on the oral argument calendar at the earliest convenient date after the briefs and record are filed. Initial appeals are assigned by rotation. Pro se pleadings are not permitted in direct appeals. Such pleadings will be stricken by the clerk. See Davis v. State, 789 So. 2d 978 (Fla. 2001).

(b) Appeals in postconviction proceedings are assigned to the justice who was assigned to the initial appeal. If that justice is no longer on the Court, the postconviction proceeding will be assigned to his or her successor.

(c) Petitions seeking review of nonfinal orders in postconviction proceedings are assigned in the same manner as appeals in postconviction proceedings and are scheduled for argument only if a justice so requests. A response is not permitted and will be stricken unless ordered by the Court. A single justice may request a response or issue an order to show cause. After a response is filed or if the assigned justice votes to dismiss or deny the petition without a response, the case will be considered en banc.

(d) Original proceedings filed are assigned in the same manner as appeals in postconviction proceedings and are scheduled for argument only if a justice so requests. Cases scheduled for argument generally proceed as described in section III(B).

(e) Proceedings filed after a death warrant is signed are treated as a separate category for assignment purposes. Those proceedings are initially assigned to the justice who was originally assigned to the initial appeal or prior postconviction proceeding. If that justice is no longer on the Court, the case will be assigned to his or her successor. The initially assigned justice may elect to have the case reassigned, on a rotational basis, to a justice who has been assigned fewer death warrant cases.

4. Public Service Commission. Cases involving Public Service Commission action relating to rates or service of utilities providing electric, gas, or telephone service are initially examined by the chief justice, after the briefs and record are filed, to determine whether the case should be placed on the oral argument calendar. If the Court determines that oral argument is unnecessary, the case is assigned to a justice. The case then proceeds in the same manner as discretionary review cases in which the Court has granted review without argument. (See section II(B)(1)(d) of this manual.) If oral argument is granted, the case file is returned to the clerk's office and the procedure outlined in section III(B) of this manual is followed.

B. Discretionary Review.

1. Discretionary Review of District Court of Appeal Decisions—Not Certified.

(a) When a party files a notice seeking to invoke discretionary review, the clerk's office determines whether the case is subject to administrative dismissal based on a lack of jurisdiction. If the clerk's office determines that the case is subject to administrative dismissal, the case is docketed and automatically

dismissed. In such cases, no rehearing is allowed. The clerk's office will administratively dismiss those cases in which a party seeks discretionary review from:

(1) a per curiam affirmance (PCA) without written opinion, see Jenkins v. State, 385 So. 2d 1356 (Fla. 1980);

(2) a per curiam affirmance (PCA) with a citation or citations to a rule of procedure, a statute, or a case not pending on review or a case that has not been quashed or reversed by the Court, see Dodi Publishing Co. v. Editorial America, S.A., 385 So. 2d 1369 (Fla. 1980);

(3) a per curiam denial of relief (PCD) without written opinion or other unelaborated denial of relief, see Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002);

(4) a per curiam denial of relief (PCD), or other unelaborated denial of relief, with a citation or citations to a rule of procedure, a statute, or a case not pending on review or a case that has not been quashed or reversed by the Court, see Gandy v. State, 846 So. 2d 1141 (Fla. 2003); or

(5) a per curiam dismissal of a case without written opinion or other unelaborated dismissal of a case, see Wells v. State, 132 So. 3d 1110 (Fla. 2014).

(b) If the clerk's office determines that the case is not subject to administrative dismissal, the case is docketed and, when all jurisdictional briefs have been filed, assigned to a panel of five justices according to a rotation formula. The file is then sent to the office of the assigned justice on the panel. The assigned justice's office prepares a memorandum summarizing the basis for jurisdiction asserted in the jurisdictional briefs and analyzing whether a basis for exercising discretionary jurisdiction exists. The assigned justice's office sends the file, memorandum, the assigned justice's vote as to whether review should be granted and, if so, whether oral argument should be heard, and his or her vote on any motion for attorney fees that has been filed in the case to the clerk's office. The clerk's office electronically distributes copies of the briefs, memorandum, and any motion for attorney fees filed in the case to the offices of each of the other justices on the panel for a vote on whether review should be granted and, if so, whether oral argument should be heard, and for a vote on any motion for attorney fees and any other pending motions that have been filed in the case. Several possible actions result from the distribution of discretionary review cases.

(1) If at least four justices vote to deny discretionary review, an order is entered denying review, the case is closed, and the file is placed in storage.

(2) If at least four justices vote to grant review but four do not agree on the need for oral argument, the chief justice may decide whether to set the case for argument or may place the question of oral argument on the Court's next conference agenda.

(3) If at least four justices vote to grant review, the clerk's office notifies the parties.

(4) If at least four justices do not agree to either grant or deny discretionary review, the case is sent to the other two justices.

(c) If the Court decides to hear oral argument, the clerk schedules the argument for the earliest convenient date. In hearing oral argument, the Court follows the procedure outlined in section III(B) of this manual. After oral argument, the Court follows the procedure outlined in section IV of this manual.

(d) If the Court dispenses with oral argument, the case file is then sent to the assigned justice's office with a no request conference date set. Copies of the briefs are also distributed to the other members of the Court along with the no request conference date. The assigned justice's office summarizes and analyzes the issues raised in the briefs in a memorandum which is distributed to the justices prior to the no request conference. The case is placed on the designated conference for consideration by the Court. After conference, the assigned justice drafts a proposed opinion which is then electronically distributed to the other members of the Court, who vote on the merits and write any dissenting or concurring opinions or remarks deemed appropriate.

2. Discretionary Review of District Court of Appeal Decisions—Certified.

(a) *Certified as Being of Great Public Importance.* After the case is docketed, the case is assigned to a panel of five justices according to a rotation formula to determine whether the Court should exercise its discretion to hear the case and whether oral argument should be granted. A copy of the notice to invoke discretionary jurisdiction, along with a copy of the district court of appeal decision, is electronically distributed to the members of the panel for voting.

If review is denied, the case is closed and the file is placed in storage. If review is granted but oral argument is deemed to be unnecessary, the case then proceeds in the same manner as other discretionary review cases in which the Court has granted review without argument. (See section II(B)(1)(d) of this

manual.) If oral argument is granted, the case is set for oral argument on the earliest convenient date after receipt of the briefs on the merits and record, and the case proceeds as described in section III(B) of this manual.

(b) *Certified as Being in Conflict.* After the case is docketed and all jurisdictional briefs have been filed, the case is assigned to a panel of five justices, according to a rotation formula, to determine whether the Court should exercise its discretion to hear the case and whether oral argument should be granted. Copies of the briefs are electronically distributed to the panel for voting.

If review is denied, the case is closed and the file is placed in storage. If review is granted but oral argument is deemed unnecessary, the case then proceeds in the same manner as other discretionary review cases in which the Court has granted review without argument. (See section II(B)(1)(d) of this manual.) If oral argument is granted, the case is set for oral argument on the earliest convenient date after receipt of the briefs on the merits and record, and the case proceeds as described in section III(B) of this manual.

3. Discretionary Review of Trial Court Orders and Judgments Certified by the District Courts of Appeal. When a district court of appeal certifies that a trial court order or judgment pending before it on appeal requires immediate resolution by the Supreme Court, no jurisdictional briefs are required. When the certification of the district court of appeal has been received, the Court considers at the next Court conference whether to accept jurisdiction. If review is granted, the record is brought up from the lower tribunal within ten days, and the case is processed in the same manner as a discretionary review case from a decision of a district court of appeal in which the Court has granted review. If review is declined, the case is transferred back to the district court of appeal.

4. Discretionary Review of Certified Questions from the Supreme Court of the United States or United States Courts of Appeals. Cases certifying a question from the Supreme Court of the United States or a United States Court of Appeals are initially examined by the chief justice after the briefs and record are filed to determine whether the case should be placed on the oral argument calendar. If oral argument is denied, the case is assigned to a justice. The case then proceeds in the same manner as discretionary review cases in which the Court has granted review without argument. (See section II(B)(1)(d) of this manual.) If oral argument is granted, the case file is returned to the clerk's office and the procedure outlined in section III(B) of this manual is followed.

5. Notice to Invoke Discretionary Jurisdiction Citing Dual Basis for Jurisdiction. Whenever a notice to invoke discretionary review is filed seeking dual basis for jurisdiction as to the same decision of a district court of appeal, the Court decides whether it has a basis for jurisdiction on any basis cited.

(a) Parties will automatically submit jurisdictional briefs addressing all jurisdictional bases sought, with the exception of review sought on a discretionary review case certified as being of great public importance, in which a briefing schedule will be issued by the Court.

(b) Once the case is perfected, it will proceed as would any other case in section II(B)(1)(b)-(d) and (B)(2) above.

6. Appeals Filed in Combination With Notice to Invoke Discretionary Review. Whenever both a notice of appeal and a notice to invoke discretionary review are filed as to the same decision of a district court of appeal, the two cases are automatically consolidated by the clerk. The case is then treated in the same fashion as a discretionary review case, and the Court decides whether it has any basis for jurisdiction.

7. Motions for Rehearing Not Authorized. Motions for rehearing or for clarification of the granting or denial of review in a discretionary review case are not authorized and are stricken by the clerk's office, at the direction of the administrative justice, as unauthorized. See Fla. R. App. P. 9.330.

C. Screening Mandatory Review and Discretionary Review Cases for Relatedness. Except for death penalty cases set forth in section II(A)(3) of this manual, the clerk's office screens incoming mandatory and discretionary review cases set forth in sections II(A) and (B) of this manual for any significant relationship to cases already pending before the Court. If the clerk's office finds no such relationship, the screened case proceeds as provided by those sections. If the clerk's office finds such a relationship, it may make any of the following recommendations to the assigned justice.

1. Consolidate. Consolidation may be warranted when the parties, issues, or facts of the cases are so intertwined or complementary that the ends of justice and administration of the law would be served by joint briefing and argument by the parties and simultaneous consideration and disposition by the Court or a panel thereof.

2. Travel Together. Cases that are not sufficiently intertwined or complementary to warrant consolidation may be sufficiently related such that

simultaneous consideration of the cases by the Court or a panel thereof is warranted.

3. **Tag.** The clerk's office may determine that the Court's disposition of a case will likely be controlled or substantially impacted by its final disposition of a case already pending before the Court. The clerk's office may recommend to the assigned justice that the case be "tagged" to the pending "lead" case. If the assigned justice agrees with the recommendation, then:

(a) The clerk's office issues an order staying the tag case until final disposition of the lead case.

(b) Upon final disposition of the lead case and the assigned justice's approval, the clerk's office lifts the stay in the tag case and issues an order directing the parties to show cause why the Court's or a panel thereof's disposition of the tag case should not be controlled by its disposition of the lead case.

(c) Upon filing of the parties' responses to the order to show cause, the tag case is submitted to the Court or a panel thereof, as appropriate, for consideration and disposition.

D. Original Proceedings.

1. **General.** Petitions for writs of mandamus, prohibition, quo warranto, and habeas corpus, and initial pleadings in other original proceedings are automatically docketed by the clerk's office and, if they are not administratively dismissed, in most cases are sent to central staff for a memorandum analyzing the issues. Non-routine petitions that raise significant issues and are appropriate for expedited handling are sent directly to the assigned justice's office for work up, which may seek input or assistance from central staff. Oral argument is set only if a justice so requests, regardless of whether a party has requested it.

2. **Writ Petitions.** Extraordinary writ proceedings are assigned to a justice by rotation. In an extraordinary writ proceeding, a single justice may transfer the case to one or more of the lower courts, authorize issuance of an order requesting a response from the respondent, or authorize issuance of an order to show cause unless the issuance of the order to show cause will automatically stay the proceedings below. If the assigned justice votes to dismiss or deny the petition or directs issuance of an order to show cause that will have the effect of staying the proceedings below, the clerk's office will automatically circulate the case to a panel of five justices. The clerk's office will also circulate the case to a panel of five justices for a vote on any matter if specifically requested to do so by the

assigned justice. Once a panel has been assigned to an extraordinary writ proceeding, the case shall circulate to that panel on all matters until the case becomes final. If four of the justices on an extraordinary writ panel do not agree on a particular disposition, the case is automatically circulated to the two remaining justices on the Court.

3. Filed by Former Death-Row Inmates. Writ petitions that are filed by former death-row inmates whose death sentences were reduced to life in prison and which allege ineffective assistance of appellate counsel are assigned to the justice who was originally assigned to the initial appeal or prior postconviction proceeding. If that justice is no longer on the Court, the case will be assigned to his or her successor. All other writ petitions filed by former death-row inmates are handled as outlined in section II(C)(1) of this manual.

4. Filed by Death-Row Inmates. Original proceedings filed by death-row inmates are handled as outlined in section II(A)(3) of the manual.

5. Automatic Transfer. Certain clearly defined types of writ petitions that raise substantial issues of fact or present individualized issues that do not require immediate resolution by the Supreme Court or are not the type of case in which an opinion from the Supreme Court would provide important guiding principles for other courts of this State are automatically transferred to a more appropriate court. See Harvard v. Singletary, 733 So. 2d 1020 (Fla. 1999). However, in certain instances the Court will dismiss a petition without prejudice to refile in the appropriate court. See Williams v. Moore, 752 So. 2d 574 (Fla. 2000). Petitions appropriate for automatic transfer are identified by central staff and reviewed by the administrative justice, who directs their transfer.

6. Automatic Dismissal; Rehearing Not Authorized. When a party files an extraordinary writ petition, the clerk's office determines whether the party is seeking review of a district court of appeal decision and whether the case is subject to administrative dismissal based on a lack of jurisdiction. If the clerk's office determines that the case is subject to administrative dismissal, the case is docketed and automatically dismissed. In such cases, no rehearing is allowed. The clerk's office will administratively dismiss those cases in which a party seeks discretionary review from:

(a) a per curiam affirmance (PCA) without written opinion, see Grate v. State, 750 So. 2d 625 (Fla. 1999);

(b) a per curiam affirmance (PCA) without written opinion but with one or more citations to a rule of procedure, a statute, or a case not pending on review before the Court and that has not been quashed or reversed by the Court, see Persaud v. State, 838 So. 2d 529 (Fla. 2003);

(c) a per curiam denial of relief (PCD) without written opinion or other unelaborated denial of relief, see Stallworth v. Moore, 827 So. 2d 974 (Fla. 2002); or

(d) a per curiam denial of relief (PCD) without written opinion, or other unelaborated denial of relief, with one or more citations to a rule of procedure, a statute, or a case not pending on review before the Court and that has not been quashed or reversed by the Court, see Foley v. State, 969 So. 2d 283 (Fla. 2007).

7. Automatic Dismissal; Rehearing Authorized.

(a) Petitions seeking review of findings of no probable cause by The Florida Bar on complaints or grievances charging attorneys with professional misconduct are automatically dismissed by the clerk. See Tyson v. Florida Bar, 826 So. 2d 265 (Fla. 2002).

(b) Extraordinary writ petitions that seek affirmative relief relative to certain pending criminal proceedings in the trial court, where it is clear from the face of the petition or its attachments that the petitioner is represented by counsel in the pending proceedings below and is not seeking to discharge counsel in those proceedings, after the issuance of an order to show cause and either no response or a response conceding, are automatically dismissed by the clerk's office. See Logan v. State, 846 So. 2d 472 (Fla. 2003).

(c) Extraordinary writ petitions that seek affirmative relief relative to certain pending criminal proceedings in the district court, where it is clear from the face of the petition or its attachments that the petitioner is represented by counsel in the pending proceedings below and is not seeking to discharge counsel in those proceedings, after the issuance of an order to show cause and either no response or a response conceding, are automatically dismissed by the clerk's office. See Johnson v. State, 974 So. 2d 363 (Fla. 2008).

E. Regulation of the Legal Profession.

1. Admission to The Florida Bar. Petitions seeking review of action by the Florida Board of Bar Examiners are docketed by the clerk's office. Upon filing of a response from the Board and a reply thereto, the case is assigned by rotation.

2. Disciplinary Proceedings.

(a) Petitions for review of action recommended by a referee or the Board of Governors of The Florida Bar are treated in the same manner as discretionary review cases in which review has been granted without oral argument. (See section II(B)(1)(c) of this manual.) If the assigned justice determines that oral argument would assist the Court in deciding the issues in the case, the file is returned to the clerk's office and the procedure outlined in section III(B) of this manual is followed. If the action recommended by the referee is disbarment or if the Bar has filed a petition for review seeking disbarment, the petition shall be promptly circulated to a panel of five justices to determine whether oral argument should be granted. Uncontested referees' reports are routinely approved by clerk's order.

(b) When a party files a petition for review, but fails to file a timely and proper initial brief, and the opposing party does not file a motion to dismiss, the clerk's office will issue an order directing the party seeking review to file an initial brief within fifteen days. If the party does not comply within fifteen days by filing an initial brief in accordance with the Rules Regulating the Florida Bar, the Court will dismiss the petition for review. Such dismissal is not subject to reinstatement. The clerk's office will then process the case as an uncontested referee's report.

F. Regulation of the Judiciary. Upon filing, recommendations from the Judicial Qualifications Commission are examined promptly for procedural regularity. If a recommendation from the commission is found to be in compliance with the constitution and the commission's rules, the Court may issue an order to the affected justice or judge to show cause why the recommended action should not be taken. Once a response and reply thereto are filed, or if no response is requested, the case is treated in the same manner as a discretionary review case in which the Court has granted review without argument. (See section II(A)(1)(d) of this manual.) If oral argument is granted, the procedure outlined in section III(B) of this manual is followed. All Judicial Qualifications Commission filings with the Court are posted on the Court's website at http://www.floridasupremecourt.org/pub_info/jqc.shtml.

G. Rulemaking.

1. General. At the request of any justice, the Court, on its own motion, may adopt or amend rules. When the Court so acts, it generally will allow interested persons to file comments by a date certain. A specific effective date is usually designated by the Court. When the Court adopts or proposes a rule change

in conjunction with a non-rule-amendment case, it will do so by means of an opinion in a separate case addressing only the rule amendment. The two opinions will reference each other and will be issued at the same time.

2. Rules Regulating The Florida Bar. Petitions to amend the Rules Regulating the Florida Bar are docketed and, in the discretion of the chief justice, either set for oral argument and processed as described in section III(B) of this manual or assigned to a justice and processed in the same manner as other cases assigned without oral argument. (See section II(B)(1)(d) of this manual.) At the assigned justice's discretion, central staff may assist with the case.

3. Rules of Practice and Procedure. Petitions to amend any of the procedural rules promulgated by the Court are docketed only if filed by The Florida Bar or a committee specially designated by the Court. Such cases are published for comments on the Proposed Rules page of the Supreme Court's website located at <http://www.floridasupremecourt.org/decisions/proposed.shtml> and, in the discretion of the assigned justice, either set for oral argument or processed in the same manner as a case assigned without oral argument, except that central staff may assist with the case. Other petitions to amend any procedural rule are referred by the clerk's office to the chair of the appropriate rules committee. Requests by the Court to rules committees for special consideration of proposed rule amendments are generally made on behalf of the Court by the clerk of the Court.

4. Supreme Court Approved Family Law Forms. The Court internally reviews, revises, and otherwise maintains the Supreme Court Approved Family Law Forms. The Court, on its own motion, makes technical and readability changes to these forms as necessary. For more substantial amendments, the Court seeks input from an informal Advisory Workgroup on the Florida Supreme Court Approved Family Law Forms. All amendments to the Supreme Court Approved Forms are adopted via written opinion, with previous publication for comment only when deemed necessary or desirable by the Court. See Amendments to the Fla. Family Law Rules of Pro. & Family Law Forms, 810 So. 2d 1, 14 (Fla. 2000). The Family Law Rules Forms are amended through the normal rulemaking process. See id.

5. Liaison Appointments & Communications with Committees. It is the policy of the Court to promote communication between the Court, The Florida Bar committees that advise the Court on court rules, Supreme Court committees authorized to propose changes to court rules or jury instructions, and any other entities, including The Florida Bar and the Florida Board of Bar Examiners,

authorized to propose rule or jury instruction changes. Accordingly, the chief justice appoints a justice to serve as the Court's liaison to each of the various committees and, as deemed appropriate, designates committee member liaisons between Supreme Court committees and any Bar rules committee whose body of rules may be affected by the Supreme Court committees' proposals. The Court considers the free flow of information between the Court and the committees before proposed amendments are filed with the Court a necessary part of the Court's official administrative duties. The Court also authorizes prefiling communication between the committees or support staff to the committees and Court staff that assists the Court in processing proposed amendments. The Court has determined that this open communication promotes more efficient rule and jury instruction development and does not affect the integrity of the proceedings before the Court or advantage any participant in those proceedings. Accordingly, the justices of the Court and their staff are not ethically prohibited from these informal communications and will not be subject to disqualification upon the filing of the proposed amendments with the Court.

H. Advisory Opinions to the Governor and Attorney General.

1. Governor. When the governor requests the advice of the Court, the clerk immediately sends a copy of the request to each justice. As soon as practicable, the chief justice calls a conference for the purpose of determining whether the governor's question is answerable and, if so, whether oral argument is desired. If the Court decides the question is answerable, the Court permits briefs from all interested parties and allows oral argument at the earliest convenient date after briefs are required to be filed. If the Court decides the question is not answerable, a reply is drafted by the assigned justice, and the reply is circulated to the other justices for a vote.

2. Attorney General. When the attorney general requests an advisory opinion, it is handled in the same manner as above except that the Court does not have to determine if the question is answerable.

I. Cases Where Incorrect Legal Remedy Has Been Sought; Transfer; Unstyled Letters and Petitions. When a party seeking Supreme Court review has filed an appeal, a notice to invoke discretionary review, a petition for habeas corpus, or other pleading, but the pleading seeks an improper remedy, the Court will treat the case as if the proper remedy had been sought. When the case should have been filed in a district court of appeal or in a circuit court, the Supreme Court will transfer the case to the appropriate court, provided that the jurisdiction of the lower court was properly invoked and the filing was timely.

When an initial pleading is inadequate to notify the clerk of the nature of the case, the pleading is docketed as a notice to invoke discretionary review, if it can be ascertained that relief is sought from a ruling of a district court of appeal issued within the thirty-day jurisdictional filing period. The litigant is then notified by mail of both the need for a proper filing and the applicable rules of procedure. If the defect in pleading is not remedied within twenty days, the litigant is advised by mail that dismissal for lack of prosecution is imminent. Unless the litigant makes a supplementary filing within twenty days thereafter, the cause is dismissed. Defective pleadings from prison inmates are researched by central staff.

J. Untimely Filings. Untimely filings are docketed and immediately dismissed by the clerk's office with a form order stating that the case is subject to reinstatement if timeliness is established on proper motion filed within fifteen days.

K. Cases Affecting Children. It is the policy of the Court to expedite proceedings presenting time-sensitive issues affecting children. Pursuant to Florida Rules of Appellate Procedure 9.145 and 9.146, in all cases involving juvenile delinquency, dependency, or termination of parental rights, the file shall remain sealed in the office of the clerk when not in use by the Court and shall not be open to inspection except by the parties and their counsel or as otherwise ordered by the Court.

L. Stays and Relinquishments. Orders staying the proceedings and orders relinquishing jurisdiction to a lower tribunal will be for a specified period of time, e.g., ninety days. In all cases that are stayed in this Court pending action by an entity other than this Court or that are relinquished to a lower tribunal, the parties shall be required to submit regular status reports to the Court.

M. Sanctioning Abusive Litigants. When the Court determines that a litigant has repeatedly filed pleadings that are meritless, frivolous, abusive, or inappropriate for review by the Supreme Court or has otherwise abused the process of the Court, the Court disposes of the pleadings before it, retains jurisdiction, and orders the litigant to show cause why the Court should not sanction the litigant for the abusive filings. If the litigant fails to show cause, the Court issues an opinion sanctioning the litigant. When the litigant being sanctioned is a prisoner as defined under section 944.279, Florida Statutes, and the Court finds that the proceedings are frivolous or malicious or otherwise meet the requirements of the statute, the Court directs the Clerk of Court to forward a certified copy of the opinion making the required findings to the appropriate institution or facility to consider initiating

disciplinary proceedings against the prisoner pursuant to the rules of the Department of Corrections.

SECTION III. ORAL ARGUMENTS

A. Preargument Procedures. Oral arguments are routinely scheduled for one week of each month, except that no arguments are heard on state holidays or during the months of July and August. At least two months before the first day of the month in which oral argument has been scheduled, the clerk's office delivers the case file to the office of the assigned justice. The assigned justice's office summarizes and analyzes the issues raised in the briefs in a memorandum for use on the bench and distributes it to each justice no later than the Wednesday of the week preceding oral argument. The director of public information prepares a brief summary on each oral argument case, which is available to the public a few days prior to oral argument and is posted on the Supreme Court Public Information page of the Court's website located at http://www.floridasupremecourt.org/pub_info/summaries/index.shtml. The briefs are also posted there. These summaries are not official Court documents.

B. Oral Argument Procedures. On oral argument days, counsel appearing that day are required to sign in with the clerk's office starting thirty minutes before arguments are scheduled to begin. At this time coffee is available for counsel in the lawyers' lounge, and the justices may join counsel for conversation not relating to cases scheduled for argument.

Oral argument routinely begins at 9 a.m., ET, but may be scheduled by the chief justice to begin at other times. Oral argument on Fridays begins at 9 a.m., ET. Approximately ten minutes before arguments begin, the justices assemble in the robing room to don their robes for the bench. At the time arguments are to begin, the marshal announces that the Court is in session and the justices enter the courtroom from behind the bench, led by the chief justice or acting chief justice, in order of seniority. Retired justices or judges assigned to temporary duty on the Court enter last. Seating alternates from right to left based on seniority. All justices remain standing until the chief justice indicates that all justices are in place.

The chief justice controls the order of argument and the time allowed to any party. The division of time for argument between co-counsel or among multiple counsel on one side of a case, and between counsel's main presentation and rebuttal, is solely counsel's responsibility. In order to assist counsel, however, amber and red lights are mounted on the lectern. When the chief justice recognizes

counsel, the allotted time begins. The amber light indicates that counsel has either (1) entered the time requested to be set aside for rebuttal, (2) gone into the time set aside for co-counsel's argument, or (3) entered the period of time near the end of argument when notice of the remaining time has been requested. The red light indicates that counsel's allotted time has expired, at which point counsel will be expected to relinquish the lectern. Any justice may ask questions or make comments at any time. The chief justice has discretion to authorize a recess during oral argument and by tradition has done so midway into the calendar. During this mid-morning recess, the justices will not meet with counsel.

At the conclusion of the calendar, the Court is adjourned. The justices leave the bench in the order in which they entered and reassemble in the conference room for a preliminary conference on the cases argued. No person may enter the conference room without the invitation of the full Court.

C. Electronic Recording and Broadcasts. Florida State University, through WFSU-TV, records all oral arguments on videotape, copies of which are available from WFSU-TV by calling 850-487-3170 or 800-322-WFSU. Except when preempted by legislative sessions, oral arguments are broadcast live via the AMC-3 satellite, KU band, at 87degrees west, transponder 18, virtual channel 802. The downlink frequency is 12046.750 MHz. The uplink frequency is 14348.500 MHz. The L-band frequency is 1296.750 MHz. The symbol rate is 7.32. The FEC is 3/4. The satellite may be preempted during legislative sessions and emergencies. Oral arguments are broadcast live on the Florida Channel, which is available statewide at the discretion of local cable providers. Arguments are also broadcast worldwide on the Internet in video and audio formats from a website jointly maintained with WFSU-TV (<http://wfsu.org/gavel2gavel/>). An archive of video and audio from previous arguments is maintained on the same website. The Court calendar, briefs, press summaries, and other information about cases and about using the Internet are posted on the Supreme Court Public Information page of the Court's website located at http://www.floridasupremecourt.org/pub_info/oralarguments.shtml.

SECTION IV. CONSIDERATION OF CASES AFTER ORAL ARGUMENT

After oral argument, the justices confer and take a tentative vote on the cases argued. The assigned justice is ordinarily the author of the Court's opinion or disposition order, and the case file is sent to that justice after conference. Once an opinion has been written, the assigned justice's office electronically distributes the opinion to the other justices, and the case file is delivered to the clerk's office. Each justice votes electronically, making any comments deemed appropriate. If a

concurring, dissenting, or other separate opinion is written, the author's office electronically distributes copies to the other justices. When all participating justices have voted on all of the separate opinions in a case, the clerk's office determines whether there are four concurring votes for a decision. If not, the case is scheduled for discussion at the next regularly scheduled conference in order to reconcile the disparate views. If any justice has requested that the case be discussed at conference, the case is placed on the conference schedule.

When the clerk's office determines that a case has the necessary votes for release, the case is sent to the reporter of decisions for technical review. After technical review by the reporter of decisions, any needed technical changes are made at the direction of the author. Then the reporter of decisions returns the case to the clerk's office for release of the Court's opinion or a majority opinion and any separate opinions filed in the case.

SECTION V. RELEASE OF OPINIONS

A. Routine Release. Copies of opinions ready for release to the public are electronically distributed to each justice no later than Thursday at noon. At any time before 10 a.m., ET, the following Thursday, any justice may direct the clerk not to release an opinion. Unless otherwise directed, on Thursday morning at 11 a.m., ET, the clerk electronically releases the opinions that were furnished to the justices the preceding Friday. Publishers other than the Court's official reporter may receive copies at the rate of fifty cents per page, and all other interested persons may receive copies at the cost of one dollar per page. Opinions are posted on the Court Opinions page of the Court's website located at <http://www.floridasupremecourt.org/decisions/opinions.shtml> by noon on the day they are released.

B. Special Release. Opinions may be released at any other time at the direction of the chief justice. When opinions are released at other times, the director of public information notifies the news media as soon as is practicable.

SECTION VI. MOTIONS

The chief justice and the administrative justice have authority to dispose of routine procedural motions, such as those seeking an extension of time, permission to file enlarged briefs, an expedited schedule, or a consolidation of cases. The chief justice and the chief justice's designee also have authority to grant requests for a stay during the pendency of a proceeding and a thirty-day stay of mandate pending review by the United States Supreme Court in order to allow counsel the

opportunity to obtain a stay from that Court. Motions filed after a case has been assigned to a justice are ruled on by that justice.

SECTION VII. REHEARINGS

Authorized motions for rehearing are considered by the justices who originally considered the case. Unauthorized and untimely motions for rehearing are sent to the administrative justice for his or her consideration.

SECTION VIII. COURT CONFERENCES

The justices meet privately each Wednesday at 9 a.m., ET, unless the chief justice otherwise directs. The agenda for the conference is prepared by the chief justice's office. The chief justice may schedule additional conferences at his or her discretion. Minutes of the Court's conferences are prepared by a justice designated by the Court and are a record of the official action taken by the Court in conference on matters other than case dispositions. The minutes are submitted to the Court for approval at a subsequent conference. Case dispositions at conference result in a formal directive from the chief justice to the clerk that the opinions or appropriate orders be filed.

SECTION IX. ASSIGNMENT OF CASES

Except as otherwise provided, all cases are assigned according to a rotation formula.

SECTION X. RECUSALS

When a justice is recused, the clerk will notify the justices of any recusals in advance of oral argument or the conference in which the case is scheduled. If four of the remaining justices cannot ultimately agree to a disposition, the chief justice may in certain cases assign a judge or senior judge to the case as a temporary "associate justice" under the procedures below. As a general rule, in such cases, reargument will not be scheduled because video and audio of the argument will be made available to the associate justice. The procedures of this subdivision do not apply where a majority of the Court agrees on the disposition of the case but a majority does not concur in a particular opinion.

A. Addition of Judge or Judges When Necessary for a Quorum. If fewer than five justices are able to participate in a case for any reason, the chief justice or the acting chief justice if the chief justice is unable to participate in the case shall assign a sufficient number of associate justices to create a quorum and

may assign additional associate justices up to the maximum. Associate justices shall be assigned according to the procedure in subdivision D below.

B. Procedure in Discretionary Jurisdiction Cases. After the Court has accepted jurisdiction, if four justices cannot agree on a disposition, absent extraordinary circumstances, the Court will discharge jurisdiction. However, if four justices participating in the case agree that extraordinary circumstances exist that would justify deciding the case, the chief justice or the acting chief justice, if the chief justice is not participating in the case, shall invoke the procedure in subdivision D below.

C. Procedure in Mandatory Jurisdiction Cases. If the case is one within the Court's mandatory jurisdiction, the chief justice or the acting chief justice if the chief justice is unable to participate in the case shall invoke the procedure in subdivision D below.

D. Method of Selection. Associate justices shall be the chief judges of the district courts of appeal selected on a rotating basis from the lowest numbered court to the highest and repeating continuously. A district court shall be temporarily removed from the rotation if the case emanated from it. If more than one associate justice is needed, they shall be selected from separate district courts according to the numerical rotation. If the chief judge of a district court who would be assigned under this procedure is recused from the case or otherwise unavailable, the next most senior judge on that court (excluding senior judges) who is not recused shall replace the chief judge as associate justice.