

IN THE SUPREME COURT, STATE OF WYOMING

April Term, A.D. 2024

In the Matter of the Revision and Publication of the)
Wyoming Supreme Court)
Internal Operating Procedures)

ORDER ADOPTING THE WYOMING SUPREME COURT INTERNAL OPERATING PROCEDURES, AS AMENDED

This matter came before the Court upon its own motion following a review of its Internal Operating Procedures. In 2013, after careful comparison of its Internal Operating Procedures against standards recommended by well-respected national organizations, this Court found that its Internal Operating Procedures should be amended to better achieve the national recommendations, to better serve the litigants that come before this Court, and to better serve the people of Wyoming. Another review of the standards and this Court’s performance seemed called for in 2024, along with some minor revisions to the Internal Operating Procedures.

This Court has carefully studied case processing time standards from the American Bar Association (ABA) and the National Center for State Courts. This Court has carefully examined the *ABA Standards Relating to Appellate Courts* (1994 Edition) and *Model Time Standards for State Appellate Courts* (2014), a collaboration of the National Center for State Courts, Conference of Chief Justices, Conference of State Court Administrators, Conference of Chief Judges of the State Courts of Appeal, National Conference of Appellate Court Clerks, and ABA. The ABA standards recommend that supreme courts dispose of 90% of all cases in one year from filing of the notice of appeal. They also recommend that supreme courts dispose of 50% of all cases within 290 days from filing of the notice of appeal. See Section 3.52(c) of the ABA Standards Relating to Appellate Courts. The *Model Time Standards* recommend that supreme courts dispose of 75% of civil cases within 270 days and criminal cases (except death penalty cases) within 180 days. They recommend that supreme courts dispose of 95% of civil cases within 390 days and criminal cases (except death penalty cases) within 330 days. See *Model Time Standards* at 20. The *Model Time Standards* recognize they “are likely to be fully achievable in a modest number of appellate courts, partially achievable in most others, and unattainable in the remainder.” *Id.* at 3. They are useful, however, as a set of aspirational goals, and to guide funding and future revisions to rules and operating procedures. *Id.*

This Court has gathered the most recent available statistics to compare against the ABA standards. For opinions published in 2022, 82% were decided in less than one year from filing the notice of appeal, and 65% were decided in less than 290 days. Ninety percent of civil cases were decided in under 390 days, and 25% in under 270 days. For criminal cases, 69% were decided in under 330 days, and 24% in under 180 days. A comparison of current data to the data provided in 2012 reveals some changes. For opinions published in 2012, this Court disposed of 90% of the cases in 377 days or less, compared to 83% in 2022. In 2012, the Court disposed of 50% of the cases in 294 days or less, compared to 55% in 2022. This Court is generally pleased with those results. The Court believes the time standards adopted in 2013 are workable and achieve the goals set forth in the Model Time Standards. In adhering to those standards, this Court notes that each of the justices endeavors to meet these deadlines, but certain cases may require more time to fully study the law and the record to achieve the appropriate result and extensions can be granted.

While this Court is convinced that the attached standards will continue to serve to expedite disposition of cases, the Court notes that it will study the entire appeals process to find other ways to expedite case disposition. For example, this Court may consider a shorter docketing period for certain types of cases. The Court may consider shortening the time period for production of some transcripts. This Court will continue to study the process governing motions for extensions of time for production of transcripts. This Court recognizes that such efforts will require careful study and input from stakeholders.

This Court finds that, consistent with the ABA standards, the attached Internal Operating Procedures should be made available to the bar and the public. See Section 3.30, ABA Standards Relating to Appellate Courts.

Finally, this Court has made minor amendments to its May 3, Wyoming Supreme Court Internal Operating Procedures, to adjust the Chief's term and the role of the Wyoming Judicial Council. It is, therefore,

ORDERED that the attached amendments to the Wyoming Supreme Court Internal Operating Procedures, as amended September 25, 2024, are hereby adopted by the Court to be effective immediately. This order and the attached amendments shall be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>.

DATED this 25th day of September, 2024.

BY THE COURT:

/s/

Kate M. Fox
Chief Justice

WYOMING SUPREME COURT INTERNAL OPERATING PROCEDURES

Rule 1. Chief justice.

- (a) Selection:
 - (i) By majority vote of the Court;
 - (ii) For two successive two-year terms; subject to approval by a majority of the Court for the second two-year term; with terms to begin on the first day of July following the selection, or upon the creation of a vacancy;
 - (iii) Serves at the pleasure of the Court.
- (b) Duties:
 - (i) Schedules, calls, and presides at Court sessions, weekly conferences, and other Court meetings;
 - (ii) Signs orders and correspondence on behalf of the Court;
 - (iii) Assigns cases for opinion writing, which assignments shall be made within four days after the post-argument or brief only conference, and which cases shall be assigned as equally as possible in regard to number and degree of difficulty;
 - (iv) Speaks for and represents the Wyoming Judicial Branch at meetings with, and in matters concerning, other branches of the state government and in expressing the views of the Branch on any matter;
 - (v) Appoints members of the judiciary to sit in place of any justice who is disqualified or unable for any reason to sit on any case;
 - (vi) Appoints members of the Court to such committees as may be constituted for standing or special purposes;
 - (vii) Assigns the preparation of orders, letters, and other documents to the senior staff attorney, clerk of court or to a justice for the signature of the chief justice;

- (viii) Supervises generally the work of the clerk of the court, the court administrator, and the senior staff attorney;
- (ix) Supervises assignment of space to court personnel;
- (x) Approves employment of the State Court Administrator after consultation with the Wyoming Judicial Council. (Each justice shall select and hire his or her own staff attorneys and judicial assistant);
- (xi) Administers the oath to newly admitted members of the Bar, those elevated to the Bench, and on other occasions as required;
- (xii) Assigns additional duties to justices as required;
- (xiii) If the chief justice is disqualified, absent, or otherwise unavailable, his or her duties shall be performed by the most senior available justice, or by a justice designated by the chief justice.

Rule 2. Meetings.

- (a) Court sessions:
 - (i) Inasmuch as the Court is a court of final appeal, parties are entitled to consideration of their cases by the full Court. Therefore, the full Court shall sit in consideration of all cases, except in extraordinary circumstances.
 - (ii) Active members of the Court at the time of consideration of an application for rehearing, and if granted, the rehearing itself, shall participate in consideration and decision. If at that time a justice shall be recused, the justice participating in the original decision shall sit, if available.
 - (iii) At the bench, the chief justice (or senior justice in the absence of the chief justice) shall sit in the center, with justices at his right and then to his left alternatively by service seniority.
 - (iv) If a case which has been designated as confidential is to be argued before the Court, the clerk of the court shall ensure that the courtroom has been cleared of all persons who are not parties, counsel for parties, or Court staff personnel, before the argument begins.

- (b) Post-argument conferences:
 - (i) Shall be held immediately following oral argument in each case, or as soon thereafter as practicable;
 - (ii) To allow members of the Court to confer and discuss each case heard;
 - (iii) With each justice being afforded an opportunity to express any views and cast a tentative vote.
- (c) Weekly conferences:
 - (i) Shall, in most circumstances, be held at 10:00 a.m., on each Tuesday (or on the following day if Tuesday falls on a holiday) except on Tuesdays when the Court is in session;
 - (ii) To consider and by majority vote, act upon applications for writs of review, motions, applications for rehearing, disciplinary matters, and similar or expedited matters;
 - (iii) To make suggestions relative to pending business, to resolve opinion differences, if possible, and to determine the potential for concurring and dissenting opinions.

Rule 3. Opinions.

- (a) General considerations:
 - (i) Opinions shall remain confidential until filed.
 - (ii) Opinions shall be considered as containing all expressions of the Court on the case, and other statements shall not be made to the news media relative thereto, except with the approval of a unanimous Court.
 - (iii) Audio broadcasts of oral arguments will be made available online at the Court's website, except for closed or confidential cases. Audio recordings of non-confidential oral argument before the Court can be provided to the public upon written request emailed to the Clerk of the Supreme Court.

- (iv) This Court will endeavor to promptly hear cases at oral argument and to promptly consider brief only cases at weekly conference. It is the goal of this Court that each case be assigned to a justice for opinion writing within 60 days after the expiration of time to file the reply brief.
 - (v) To the extent reasonably possible, each justice's work schedule shall be adjusted to give priority to cases involving children, *e.g.*, adoption cases; child custody cases; juvenile delinquency cases; abuse and neglect cases; and termination of parental rights cases.
- (b) Time schedule:
- (i) Within 90 days after assignment of an opinion to a justice for writing, an initial draft shall be prepared and shall be circulated to the other justices. If a justice fails to meet this time schedule, the opinion may be reassigned to another justice.
 - (ii) Within 10 calendar days after circulation of a proffered majority opinion, all other justices shall respond in writing, indicating a decision to concur, dissent, or specially concur.
 - (iii) Within 30 days from the date the original opinion was circulated, any dissent or concurrence shall be circulated in finalized form for publication and shall be published with the majority opinion in such form unless it is modified prior to publication. Notice shall be given of the publication date. The justice whose concurring or dissenting opinion is not available for publication the day before the date of publication of the Court's opinion shall be shown as concurring or dissenting only, without written opinion. Non-responding justices shall be shown as concurring in the Court's opinion.
 - (iv) Each justice's work schedule shall be adjusted in such a manner as to give priority to submitting, in a form for publication, any dissent or concurrence to a circulated opinion. Each justice shall respond within 5 working days of circulation of a concurring or dissenting opinion, indicating his or her then-current position.
 - (v) Any of the above schedule segments may be extended for up to 30 days upon a showing of need for additional time. In exceptional cases, such as death penalty cases, or cases involving many issues, or very complex issues, the Court may entirely waive the applicability of this schedule.

- (vi) Each justice is entitled to rely on the above schedule and will cause circulated majority opinions to be published in accordance with these rules.
- (c) If responses submitted in accordance with Rule 3(b)(ii) indicate that a majority of the Court does not concur with the circulated opinion, the case shall be reassigned and the time schedule set out in Rule 3(b) shall apply.
- (d) After all justices have responded to a circulated opinion, thus causing that circulated opinion to be ready for publication, the opinion shall be published within 20 days.
- (e) If the foregoing requirements are regularly disregarded by a justice, or if a justice has 15 or more uncirculated opinions, the chief justice shall so advise the Commission on Judicial Conduct and Ethics.

Rule 4. Designation of hours of official court business.

The regular business hours for the operation of the Wyoming Supreme Court, and each separate circuit court within the judicial system, shall be 8:00 a.m. to 5:00 p.m., Monday through Friday. Exceptions may be made in specified cases where personnel restrictions, holidays, or normal building operations justify an alternative arrangement. Exceptions must be approved in advance by order of the Court.

Rule 5. Amendment and applicability.

These procedures are subject to change by the Court at any time and shall not in any manner form the basis of error or contest of any action in this Court.