



**The Idaho Supreme Court:  
*Book of (Not so Secret) Secrets***

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Idaho Supreme Court

September 2021



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**Disclaimer:**

The statements made and any materials distributed as part of this presentation are provided for educational purposes only. They do not constitute legal advice, nor do they necessarily reflect the views of the Idaho Supreme Court.



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**Amendments to  
Idaho Appellate Rules**

Effective July 1, 2021



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### I.A.R. 13(a) – Automatic Stay of Proceedings Upon Appeal

(a) **Temporary Stay in Civil Actions Upon Filing a Notice of Appeal or Notice of Cross-Appeal.** Unless otherwise ordered by the district court, upon the filing of a notice of appeal or notice of cross-appeal all proceedings and execution of all judgments or orders in a civil action in the district court, shall be automatically stayed for a period of fourteen (14) days; provided, however, that there shall be no automatic stay of any civil protection order issued pursuant to Idaho Code Sections 18-7907 or 39-6306. Any further stay of proceedings and execution of judgments covered by this rule shall be only by order of the district court or the Supreme Court. Any stay of orders or proceedings in the Industrial Commission or the Public Utilities Commission shall be as provided in Rule 13(d) and (e).



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### I.R.C.P. 83(e) – Appeals from Magistrate Decisions

(e) **Stay During Appeal--Powers of Magistrate.**

(1) *Stay of Proceedings.* The filing of an appeal to the district court automatically stays the proceeding and execution of any judgment or order appealed from by the appellant for a period of 14 days; provided, however, that there shall be no automatic stay of any civil protection order issued pursuant to Idaho Code Sections 18-7907 or 39-6306. Any further stay of proceedings and execution of judgments covered by this rule must be by order of the presiding magistrate court or the district court.



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### I.A.R. 13(b) – Powers of District Court During Stay

(b) **Stay Upon Appeal - Powers of District Court - Civil Actions.** In civil actions, unless prohibited by order of the Supreme Court, the district court shall have the power and authority to rule upon the following motions and to take the following actions during the pendency ~~one~~ of an appeal;

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(18) Take any action and rule upon all matters, including conduct of a trial, during a permissive appeal under Rule 12, I.A.R. or during an appeal from a partial judgment certified as final under Rule 54(b) I.R.C.P., if approved by the Supreme Court under Rule 13.4(a), I.A.R.

(19) During an appeal from a partial judgment certified as final under Rule 54(b), I.R.C.P., take any actions and rule upon any matters unaffected by the Rule 54(b) judgment, including conducting a trial of the issues remaining in the case, unless a stay is entered by either the district court or the Supreme Court under Rule 13.4(b), I.A.R.



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### **I.A.R. 13.4** – Delegation of Jurisdiction to District Court

#### **Rule 13.4. Delegation of Jurisdiction to District Court During an Appeal.**

**(a) During a Permissive Appeal under Rule 12, I.A.R., or an appeal from a partial judgment certified as final under Rule 54(b) I.R.C.P.:** During a permissive appeal under Rule 12, I.A.R., the Supreme Court may, by order, delegate jurisdiction to the district court to take specific actions and rule upon specific matters, which may include jurisdiction to conduct a trial of issues. A motion for an order under this rule may be filed with the Supreme Court by any party in the district court action or the administrative proceeding.

**(b) Appeal from a Partial Judgment Certified as Final under Rule 54(b), I.R.C.P.:** During an appeal from a partial judgment certified as final under Rule 54(b), I.R.C.P., the district court retains jurisdiction to take actions and rule upon matters unaffected by the Rule 54(b) judgment, which may include jurisdiction to conduct a trial of the issues remaining in the case. Provided, however, that the district court may enter an order staying the remainder of the case pending an appeal of the Rule 54(b) judgment, either on its own motion or on the motion of any party.



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### **I.A.R. 13.4** – Delegation of Jurisdiction (cont'd)

**(1) Motion to District Court.** A motion for stay under this subdivision may be filed with the district court at any time during the pendency of the appeal of the Rule 54(b) judgment. The motion shall be filed, served, noticed for hearing and processed in the same manner as any other motion, and hearing of the motion shall be expedited. Within fourteen (14) days after the hearing, the district court shall enter an order granting or denying the motion for stay and setting forth the reasoning for its decision.

**(2) Motion to Supreme Court.** If the district court denies the motion for stay, or fails to rule upon the motion within twenty-one (21) days after the filing of the motion, the moving party may apply to the Supreme Court for a stay. If the district court grants a stay, any party may apply to the Supreme Court to modify or vacate the stay. A copy of the district court's order granting or denying the motion to stay must be attached to the motion filed with the Supreme Court. Any order of the Supreme Court shall take precedence over any order entered by the district court.



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### **I.R.C.P. 54(b)** – Stay on Appeal of Partial Judgment

#### **(b) Partial Judgment Upon Multiple Claims or Involving Multiple Parties.**

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**(2) Jurisdiction if Appealed After Rule 54(b) Certificate.** If a Rule 54(b) Certificate is issued on a partial judgment and an appeal is filed, the trial court loses all jurisdiction over the entire action retains jurisdiction to take any actions and rule upon any matters unaffected by the Rule 54(b) judgment, including conducting a trial of the issues remaining in the case, except as provided in Rules 13 and 13.4 of the Idaho Appellate Rules.



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### **I.A.R. 29(a)** – Objections to Record or Transcript

(a) **Settlement of Transcript and Record.** ... The parties shall have 28 days from the date of the service of the transcript and the record within which to file objections to the transcript or the record, including requests for corrections, additions or deletions. ... Any objection made to the reporter's transcript or clerk's or agency's record must be accompanied by a notice setting the objection for hearing and shall be heard and determined by the district court or administrative agency from which the appeal is taken; provided, however, that no hearing shall be necessary if the opposing party stipulates to, or otherwise indicates in writing that it does not oppose, the relief requested in the objection. After such determination is made, the reporter's transcript and clerk's or agency's record shall be deemed settled as ordered by the district court or administrative agency. The reporter's transcript and clerk's or agency's record may also be settled by stipulation of all affected parties.



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### **I.A.R. 34(b)** – Length of Appellate Briefs

**Rule 34. Briefs on Appeal—Number – Length – Time for Filing –Service of Briefs—Extension – Augmentation.**

(a) **Number of Copies.** The original of all appellate briefs shall be filed with the Supreme Court and the original shall be signed by the party submitting the brief. No copies are required.

(b) **Length of Briefs.** No brief in excess of 50 pages, including covers and anything contained between them—excluding covers, the caption page, the table of contents, the table of authorities, the certificate of service, and any addendums or exhibits, shall be filed without consent of the Supreme Court.

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### **I.A.R. 26(m)** – Transcript Format and Pagination

(m) **~~Compressed Transcript~~Format and Pagination.**

(1) **Electronic Format.** The electronic copy of the reporter's transcript shall be prepared in standard format in the same arrangement as specified in this rule. The standard format shall have no more than one page of regular transcript on one 8 1/2 x 11 inch page of the electronic file. Each page shall be numbered consecutively at the bottom center of each page.

(2) **Hard Copy.** If a hard copy of the reporter's transcript is requested, the hard copy may ~~The reporter's transcript shall~~ be prepared in a compressed format in the same arrangement as specified in this rule with the following requirements: A. The cover page and indexes shall be printed in standard format for ready identification, which information can also be included in the compressed transcript. B. The compressed format shall have no more than 12 pages of regular transcript on one page of compressed transcript, using both the front and back of each page and having no more than three columns of text on a page. Each page shall be numbered consecutively at the bottom center of each page. The pagination shall be horizontal as follows: 1 2 3 4. C. The compressed transcript shall contain identification of page and line numbers from the standard transcript and shall be printed in a format that is easily readable. D. Each volume of a compressed transcript shall contain no more than 200 pages, unless the transcript can be completed in 250 pages or less.



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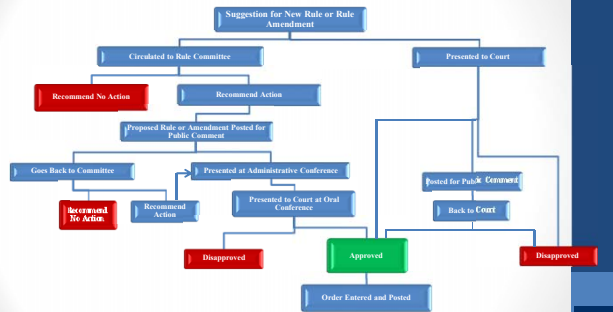
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### Book of Secrets or Open Book?



### Rulemaking and Rule Amendment Processes

#### Rulemaking and Rule Amendment Process



The screenshot shows the official website of the Supreme Court of India. The top navigation bar includes links such as 'Home', 'About Us', 'Judges', 'Cases', 'Orders', 'Advisory Committees', 'Public Information', 'Contact Us', 'Feedback', 'Press', 'Media', 'Archives', 'Publications', 'Library', 'Research', 'Statistics', 'Links', 'Help', 'Privacy Policy', 'Terms of Use', 'Disclaimer', 'Sitemap', 'Glossary', 'FAQs', 'About Us', 'Judges', 'Cases', 'Orders', 'Advisory Committees', 'Public Information', 'Contact Us', 'Feedback', 'Press', 'Media', 'Archives', 'Publications', 'Library', 'Research', 'Statistics', 'Links', 'Help', 'Privacy Policy', 'Terms of Use', 'Disclaimer', 'Sitemap', 'Glossary'. The 'About Us' link is circled in red. Below the navigation bar, there is a section titled 'Need It Or Odyssey Help?' with a list of links including 'State Judicial Empowerment Schemes Regarding COVID-19', 'COVID-19 Precautions in India's Courts', and '202 Annual Report'. To the right, there is a list of committees and subcommittees, including 'ADMINISTRATIVE CONFERENCE', 'ADJUDICATING COMMITTEES', 'APPELLATE POLICE ADVISORY COMMITTEES', 'CHILD PROTECTION SUBCOMMITTEE', 'CHILD PROTECTION ADVISORY COMMITTEES', 'CHILDREN AND MINORS IN THE COURT'S COMMITTEE', 'JUDICIAL AID NETWORKING COMMITTEES', 'JUDICIAL JUSTICE IMPROVEMENT TASK FORCE', 'COURT ASSISTANCE OFFICE COMMITTEES', 'COURT SECURITY COMMITTEES', 'COURT SECURITY ADVISORY COMMITTEES', 'CRIMINAL JURY INSTITUTION COMMITTEES', 'CRIMINAL ADVISORY COMMITTEE', 'CRIMINAL JURY INSTITUTION COMMITTEES', 'JUDICIAL PRACTICE (COVID-19) REVIEW AND RECOMMENDATION BOARD', 'SPECIAL APPELLATE & BAPTIST ADVISORY BOARD', 'WOMEN AND POLICE ADVISORY COMMITTEE', 'WOMEN AND POLICE ADVISORY COMMITTEE', 'POLICE INTERVIEWING COMMITTEE', and 'POLICE INTERVIEWING COMMITTEE'.

The screenshot shows the homepage of the Idaho State Supreme Court website. At the top, the text reads "Idaho State Supreme Court" and "State of Idaho | IDOT". Below this is a banner image of the Idaho State Capitol building with the text "STATE OF IDAHO SUPREME COURT". A navigation menu includes links for "Home", "About Us", "Public Comment", "Court News", "Contact Us", "Careers", and "Media". The "Public Comment" link is circled in red. Below the navigation menu, there are sections for "New Cases, Opinions, News and Press Releases", "How to File for Public Comment", and "As the Third District Court of Appeals, we have a duty to ensure that the public has a fair and important role to play in the judicial process." There is also a section for "For Opinions, Review or on Twitter" with a Twitter icon.

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## New Rules & Amendments (cont'd)



- Always check for rule updates
  - ISC website
  - E-Bulletin/ISB website
  - Yearly *Advocate* article
- Contact me: [lfleming@idcourts.net](mailto:lfleming@idcourts.net)
  - Orders
  - Committee minutes
  - Suggest new rule or amendment

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## Other “Secrets”



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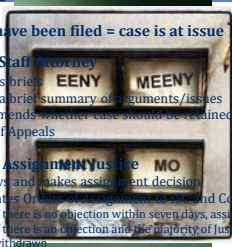
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## Case Assignment Process

- All briefs have been filed = case is at issue
- Routed to Staff Attorney
  - Reviews brief
  - Writes a brief summary of arguments/issues
  - Recommends whether case should be retained by ISC or assigned to Court of Appeals
- Routed to Assignment Justice
  - Reviews and makes assignment decision
  - Circulates Order of Assignment to ISC and Court of Appeals
    - ❖ If there is no objection within seven days, assignment is final
    - ❖ If there is an objection and the majority of justices concur, assignment is withdrawn



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## From Assignment to Opinion

- **Specifics of processes are set forth in Court's Internal Rules**
  - [https://isc.idaho.gov/rules/INTERNAL\\_RULES\\_%2011-16.pdf](https://isc.idaho.gov/rules/INTERNAL_RULES_%2011-16.pdf)
- **Once assigned, placed on calendar for specific Term of Court**
- **Then assigned by lot to a particular justice**
  - Responsible for preparing prehearing memorandum
- **Following oral argument, Court immediately conferences the case**
  - If justice who prepared prehearing memo appears to be in the majority, that justice will be assigned to write the opinion
  - If justice who prepared prehearing memo does not appear to be in the majority, the case will be assigned to another justice
- **Assigned justice prepares and circulates semifinal opinion**
- **Considered on at least two voting calendars**
- **Opinion issues when concurred in by majority of the Court**

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## Petitions / Motions / Original Proceedings

- **Specifics of processes are set forth in Court's Internal Rules**
    - [https://isc.idaho.gov/rules/INTERNAL\\_RULES\\_%2011-16.pdf](https://isc.idaho.gov/rules/INTERNAL_RULES_%2011-16.pdf)
- |                  |  |  |
|------------------|--|--|
| <b>Petitions</b> | <ul style="list-style-type: none"><li>➤ <b>Rehearing</b><ul style="list-style-type: none"><li>▪ Routed straight to Court</li><li>▪ Granted by majority vote</li></ul></li></ul>  | <ul style="list-style-type: none"><li>➤ <b>Review</b><ul style="list-style-type: none"><li>▪ Routed to Staff Attorney</li><li>▪ Granted by majority vote</li></ul></li></ul> |
| <b>Motions</b>   | <ul style="list-style-type: none"><li>➤ <b>Schedule A</b><ul style="list-style-type: none"><li>▪ Routine</li><li>▪ Clerk enters orders</li></ul></li><li>➤ <b>Schedule B</b><ul style="list-style-type: none"><li>▪ Less routine</li><li>▪ Staff Atty reviews</li><li>▪ Motion Justice decides</li></ul></li><li>➤ <b>Full Court</b><ul style="list-style-type: none"><li>▪ Substantive</li><li>▪ Staff Atty reviews</li><li>▪ Majority vote</li></ul></li></ul> |  |
| <b>Writs</b>     | <ul style="list-style-type: none"><li>➤ <b>Mandamus/Prohibition/Review/Habeas Corpus</b><ul style="list-style-type: none"><li>▪ Reviewed by Staff Attorney</li><li>▪ Circulated to Full Court</li><li>▪ Processed as provided by I.A.R. 5 and/or statute</li></ul></li></ul>   |  |

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# **INTERNAL RULES OF THE IDAHO SUPREME COURT**

**Adopted: February 14, 1995  
Amended: March 26, 1998  
Amended: May 25, 1999  
Amended: April 25, 2001  
Amended: December 20, 2001  
Amended: March 20, 2002  
Amended: September 9, 2002  
Amended: January 27, 2005  
Amended: September 13, 2005  
Amended: September 6, 2006  
Amended: January 3, 2008  
Amended: February 6, 2008  
Amended November 14, 2016  
Amended: November 16, 2016**

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1. **CHIEF JUSTICE.**
  - (a) Selection and Term. The chief justice shall be selected as provided in Art. 5, § 6, of the Constitution of the State of Idaho.
  - (b) Duties. The duties of the chief justice shall be as provided by the Constitution or as provided by law, and as further delineated by a written Declaration of Policy enacted in writing by a majority of the Court. The chief justice, or in the absence of the chief justice, the vice-chief justice, shall execute all official documents on behalf of the Court, except that the chief justice may designate one of the other justices, administrative director, or the clerk, to execute certain official documents on behalf of the Court regardless of the chief justice's presence.
2. **VICE-CHIEF JUSTICE.** The vice-chief justice shall be the justice (other than the chief justice) senior in terms of years of service on the Court, unless a specific election for the position is conducted, in which event the vice-chief justice shall be elected in the same manner as the chief justice for a term as designated by the Court and shall serve at the pleasure of the members of the Court. The vice-chief justice shall perform all functions of the chief justice in the latter's absence, disability or disqualification.
3. **JUSTICES.**
  - (a) Each justice on the Court shall be assigned a number which shall indicate their order of precedence.
  - (b) A retired justice, or an active or retired judge of the Court of Appeals or the district court, while acting by assignment as a justice of the Court (Const. Art., § 12), shall observe the duties and be entitled to exercise the powers of the office of a justice of the Court as to that assignment.
4. **VOTE.** Each justice, including the chief justice, shall have one vote on all issues brought before the Court and all votes shall be recorded.
5. **ATTIRE.** The Court shall select and purchase the official robe to be worn by each justice at official functions.

At all official functions of the Court, at which the Court is present in a body, the justices will ordinarily wear their official robes.

A justice, while in the performance of official functions, such as swearing-in of state officials or others, or performance of marriage ceremonies, shall normally wear the official robe.
6. **PHOTOGRAPHS OF JUSTICES.** Official group photograph of the justices shall be taken annually. Sufficient copies shall be obtained so that one copy may be presented to each justice and one copy shall be kept for a permanent record in

the clerk's office, and requisite copies made available for use by the news media. The costs of such photographs shall be paid out of the Court's appropriation.

Official individual photographs of newly-appointed or elected justices or a newly-elected chief justice shall be taken, framed and paid out of the Court's appropriation. All photographs of the justices shall be, as nearly as possible, of standardized size and framing. Copies of individual photographs of the justices shall be maintained by the Administrative Director of the Courts and made available for use by the news media.

7. **COURT PERSONNEL.** The term "court personnel" includes individuals, other than justices, employed regularly by the Court.

(1) All Court personnel shall be appointed and serve in accordance with the provisions of the most recent Idaho Judicial Personnel Policies Manual. Sick leave, vacation and other matters shall be governed by the provisions of the Idaho Judicial Personnel Policies Manual.

8. **CLERK OF THE COURT.**

(a) The clerk of the Court shall be appointed and serve at the pleasure of the Court and perform such duties as required by the statute and the direction of the Court.

(b) Attendance at Court Terms. The clerk or a designee of the clerk shall attend all terms of the Court and make arrangements for courtroom and other facilities in ample time prior to each term.

9. **CONFIDENTIALITY.** It is the policy of the Court to keep all information relating to the status of a case confidential from the time it is drawn and assigned to a particular office until the time the opinion is distributed to the public. "Confidential" means that information should not be disclosed to anyone other than a justice, judicial assistant, law clerk, clerk or deputy clerk, and is not to be conveyed further. Information on which justice has been assigned the case for preparation of the prehearing, how the various justices are voting or writing, where the opinion is in the circulation process and who has been assigned to write the majority opinion are all matters which are not to be disclosed.

10. **DISCRETIONARY FUNDS.** In those years the legislature appropriates an amount for the chief justice and for each justice for their discretionary fund, the expenditure of money from each justice's discretionary fund is to be at the sole discretion of the individual justice and is not subject to the approval or control of the chief justice or the fiscal office.

11. **PREPARATION OF CASE CALENDAR AND PREHEARING MEMORANDUM.**

(a) At least thirty (30) days prior to any scheduled terms of court, the clerk shall

prepare a proposed calendar of cases then at issue and ready for argument before the Court. Each case on the approved calendar shall be assigned by lot to a justice who shall be responsible for preparation of a prehearing memorandum for that case for circulation to the justices at least seven (7) days prior to the opening of the term. This prehearing memorandum shall consist of a summary of facts, the procedures below, the issues before the Court for resolution, the arguments and legal position of the respective parties, and additional or other data (such as findings of fact, memorandum opinions, exhibits, etc.) as may be of assistance to the other members of the Court, and may include a recommended decision on any or all issues.

(b) Press Releases. At least two weeks prior to the opening of each term of Court, press releases for the cases to be heard in the ensuing term will be prepared by the justices' offices, and disseminated by the clerk of the Court.

12. **ORAL ARGUMENT - CONFERENCE.** Following oral argument, the Court will recess and convene in a conference. Discussion of the case will be opened by the justice by whom the prehearing memorandum was prepared, these remarks being presented without interruption. Thereafter, each justice in inverse order of seniority may discuss the case without interruption. Following the initial discussion by each justice, the discussion will go around the table a second time in the same order, at which time each justice may comment on the remarks and issues raised by the preceding justices, and each justice at their second turn will conclude with an indication of the proposed disposition of the case. At the conclusion of the conference, if it appears that the justice who prepared the prehearing memorandum is in the majority, the chief justice will then assign the case to that justice.

If the justice who prepared the prehearing memorandum does not appear to be in the majority, the case will then be assigned by the chief justice to a justice in the apparent majority in which event an equalizing assignment between the relinquishing and receiving justice will be made from the cases drawn at the next term of court.

After a semifinal opinion has been prepared, it will be circulated among the other justices and registered with the clerk of the Court, which registration will be deemed to have discharged that justice's responsibility for preparing the semifinal opinion. The draft opinion will become final and be distributed to the litigants and the public as later provided in these rules.

The chief justice, with the approval and consent of the Court, may withdraw a case from assignment and submission to any individual justice.

The Court will maintain a record of all cases assigned, submitted or withdrawn and reassigned, reflecting the date of registration of each semifinal opinion.

Upon request, a justice who is excused by the Chief justice from being physically present at oral argument may listen to a live broadcast or recording of the argument and participate in oral conference with the court. Any justice may participate in oral conference by telephone conference.

13. **VOTING CALENDARS.** At least twice each month the chief justice will cause to be circulated to each justice a voting calendar, returnable by a date specified thereon not less than ten (10) working days. The voting calendar issued by the clerk's office shall be the official voting calendar of the Court. Each justice shall vote the calendar by use of one of the following designations:

Concur

Special Concurrence (which ordinarily would produce a written expression of reasons)

Concur in Result (which ordinarily would produce a written expression of reasons)

Dissent with written opinion

Dissent without written opinion

Concur in part and Dissent in part (with or without opinion)

Additional comments may be added as necessary.

14. **REASSIGNMENT OF CASES.** When it appears that the views of the justice to whom a case has been assigned are not concurred in by the majority of the Court, the chief justice may reassign the case to another justice who shares the majority view. At the drawing of cases for the next term, the first justice will draw one case in the place of the justice to whom the case has been reassigned.

A reassigned case shall retain its original distribution number upon the circulation of a new semifinal by the justice to whom it has been reassigned. The voting calendar will contain a notation as to the date of reassignment.

15. **OPINIONS.**

(a) After a semifinal opinion has been considered on two case calendars, and on the second, i.e., the calendar designated "02", or a subsequent calendar has been concurred in (or concurred in specially or in the result) by a majority of the Court, a lodging by the author of the opinion shall be accomplished by notifying the clerk. This provision may be waived by a unanimous vote of the Court. The Court shall cause a notation of the lodging of the opinion to be made in a record maintained for this purpose. A copy of the lodged opinion shall be delivered to each of the justices at least twenty-one (21) calendar days before it is released for publication. This period may be shortened by unanimous vote.

(b) Dissenting or Concurring Opinion. Any justice desiring to submit a dissenting or concurring opinion shall so notify, in writing, the author of the opinion, the other members of the Court, and the clerk, and shall lodge and

circulate the concurring or dissenting opinion within twenty-one (21) calendar days before the opinion is released for publication. The twenty-one (21) day period shall extend for each day the Court is sitting in a term outside of Boise.

The clerk shall cause the dissenting or concurring opinion to be attached to the majority opinion and all opinions shall then be filed and released at the same time. In the event that a dissenting or specially concurring opinion is not filed within the time provided by the rule, and unless the chief justice directs otherwise, the majority opinion shall be released and the justice who filed a notice of intent to file such a dissenting or specially concurring opinion shall be listed as dissenting or specially concurring, but “filed no opinion.”

Specially concurring and dissenting opinions will be published in the sequence lodged, all special concurrences first, followed by all dissenting opinions.

(c) Filing and Release for Publication. If a concurring or dissenting opinion is lodged and circulated during the twentieth (20th) or twenty-first (21st) days of the twenty-one (21) day period, the filing and release for publication will be held for four (4) additional working days for any change of vote. The four (4) day period shall be extended for each day the Court is sitting in a term outside of Boise.

(d) Typographical Errors in Transcripts. When portions of transcripts on appeal are quoted in opinions of the Court, obvious typographical errors appearing in the original text shall be disregarded.

(e) Uniform System of Citation. Citations appearing in opinions shall be in conformity with statutory provision of this state, the rules of this Court and if not therein covered, in conformity with the current edition of “A Uniform System of Citation,” published and distributed by the Harvard Law Review Association, or the “ALWD (Association of Legal Writing Directors) Citation Manual: A Professional System of Citation.”

(f) Unpublished Opinions of the Court. At or after the oral conference following the presentation of oral argument or the submission of the case to the Court on the briefs, the Court, by the unanimous consent of all justices, may determine not to publish the final opinion of the Court. If an opinion is not published, it may not be cited as authority or precedent in any court.

(g) News Releases. When an opinion is released for publication, the authoring justice shall determine whether it should be accompanied by a news release succinctly reporting the decision reached if the justice feels that there are significant new legal principles established or the case is one of great public interest. The justice who authored the opinion shall prepare the release and circulate it to the other justices participating in the decision no later than one working day before the release of the opinion.



16. **ORIGINAL PROCEEDINGS, PETITIONS AND MOTIONS.** Application for original writs, petitions for review, petitions for rehearing, and all other petitions, motions or preliminary matters, shall be circulated among the members of the Court for their vote on disposition forms, or such other forms as may be approved by the majority of the Court.
- (a) Petitions for Rehearing
1. Rehearing shall be granted by majority vote of the justices who participated in the decision and opinion in the case. A justice pro tem who sat in the initial hearing or argument will participate in voting on such petitions. However, the pro tem will not sit on the rehearing if a duly appointed or elected justice is available to sit in the place of the pro tem. If a justice who participated in the decision and opinion of the case has been replaced by a duly appointed or elected justice, the new justice will vote on the Petition for Rehearing and sit on the rehearing if granted.
  2. When a petition for rehearing has been filed, and whether or not granted, the original opinion may be withdrawn and a new opinion substituted therefor. When any material change, alteration, amendment or addition is made in an opinion upon petition for rehearing, the same shall be done by written opinion or memorandum filed with the clerk in the same manner as is done with an original opinion. When a petition for rehearing is to be denied, any justice who gives notice to the clerk of the Court that such justice intends to write a dissent on denial of rehearing will have seven (7) days in which to file such dissent with the clerk.
- (b) Petitions for Review
1. Petitions for review of decisions of the Court of Appeals shall be granted by an affirmative vote of three or more justices. In the event that a justice is disqualified or is otherwise unable to participate, then a justice pro tem shall be designated by the chief justice to vote on the petition for review.
17. **ADMINISTRATIVE CONFERENCES.** Administrative conferences shall be called periodically by the chief justice and will deal with administrative and fiscal matters, committee reports, matters submitted by Court personnel, and other appropriate matters.
18. **PREPARATION AND APPROVAL OF MINUTES.** Following any official action of the Court (including administrative conferences), the chief justice shall prepare a proposed draft of minutes of the proceedings reflecting the vote of each justice. The proposed draft of the minutes shall be circulated to the justices for their approval prior to insertion into the Minute Book of the Court.
- (h) Written Opinions. Written opinions of the Court should not contain allegations that judges violated the Idaho Code of Judicial Conduct or that

attorneys violated the Idaho Rules of Professional Conduct, unless provisions of the Code or Rules are at issue in the case. Proceedings to discipline judges or lawyers are confidential in nature and, therefore, allegations of ethical violations are to be entertained and processed pursuant to applicable rules of the Court or Bar Association. A referral to either the Idaho Judicial Council or the Idaho State Bar Association will not be included in an opinion. This does not mean that the Court or an individual Justice must refrain from commenting upon the conduct of a judge or lawyer in an opinion. The intent is only to limit allegations of violations of specific rules of conduct.

19. **REMOVAL OF RECORDS FROM VAULT.** Original files and transcripts in a particular case may be temporarily removed from the clerk's vault only upon request by a justice or the staff attorney and upon receipt given by the justice or staff attorney; exhibits and copies of briefs and transcripts may be removed and receipted for by a law clerk or judicial assistant to a justice or by the staff attorney.
20. **PUBLIC INFORMATION OFFICER.** The administrative director or designee shall serve as the public information officer of the Court and under the direction and supervision of the chief justice, shall advise news media of official Court functions.
21. **ASSIGNMENT OF CASES.** The chief justice (or designee) shall make the tentative assignment of cases as between the Supreme Court and the Court of Appeals. Copies of each assignment sheet shall be given to the justices, affording each an opportunity to object to and request the Court to reconsider the assignment. If no objection is filed within seven (7) days, the assignment shall be final. Any objection to the assignment shall be stated, with reasons, in writing and circulated to all justices. If a majority of the justices concur in the objection within the balance of the seven (7) day period or within three (3) days after the objection is circulated, whichever is later, the assignment shall be withdrawn. At the request of any justice, the objection to the assignment shall be taken up at conference.
22. **LEGAL INTERN CERTIFICATES.** The chief justice, or designee, shall sign legal intern certificates on behalf of the Court.

**SCHEDULE B**  
**(To be attached to the Declaration of Policy)**

The Motion Justice is assigned authority to enter orders or take other definitive action on behalf of the entire court in the following matters, unless the Motion Justice determines that the entire court should be involved. The Motion Justice will receive a disposition memo from the Staff Attorney before taking action.

1. Motions to withdraw filed by court appointed counsel.
2. Motions to reconsider rulings on prior motions.
3. Habeas petitions from prisoners where no grounds regarding conditions of confinement are raised.
4. Petitions from prisoners for writs of error or mandate where no grounds are asserted that would allow relief.
5. Motions to remand.
6. Non routine motions to waive fees.
7. Responses to orders of conditional dismissal based on timeliness or appealability of order.
8. Motions for appointment of counsel.
9. Request for Appointment of Hearing Committee in disciplinary proceedings.
10. Recalling a remittitur alleged to have been wrongly issued.
11. Motions for substitution of counsel.
12. Briefs exceeding 60 pages.
13. Motions for leave to file a late petition for review.
14. Motions to file a non-conforming brief if there is an objection.
15. Motions requesting a third extension of time.
16. Motions for extension of time for filing a transcript or record.
17. Motions for time for filing a transcript estimated to be over 500 pages.