NEVADA SUPREME COURT

INTERNAL OPERATING PROCEDURES

Last Amended: February 13, 2020

Previously Amended:

December 16, 2004
August 1, 2007
January 1, 2009
July 1, 2009
October 21, 2009
June 1, 2013

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Rule 1. Court Organization.

(a) Composition of the Court. The Supreme Court of Nevada is comprised of a chief justice and six associate justices. The position of chief justice rotates every 2 years. The justice most senior in current commission serves as chief justice. Unless otherwise agreed by those eligible, if two or more justices are eligible to serve as chief justice, then the chief justice is determined by lot. When two justices are eligible to serve as chief justice, the justice not selected by lot as chief justice serves as associate chief justice. When three justices are eligible to serve as chief justice, of the two justices not selected by lot as chief justice, the justice with the most seniority on the court shall serve as associate chief justice.

(b) Panel Structure and Operation. The court may sit, hear and decide cases in panels of three justices. The six associate justices will be randomly appointed to one of two panels, either the northern panel or the southern panel, with panel membership rotating every 12 months. Each newly created panel shall not duplicate a previous panel's membership unless all other combinations have been previously used. At least 9 months before each rotation, the panel members shall be selected and the justices informed of their panel appointments and the court clerk shall announce the names of the panel members at that time. If any justice has served on the same panel (Northern or Southern) for 4 or more consecutive years, that justice may ask to be reassigned. Panel membership rotates on the first Monday in January of each year.

(c) Chief Justice. The chief justice is the administrative head of the court system. The chief justice determines which cases are retained by the supreme court or transferred to the court of appeals consistent with the Nevada Rules of Appellate Procedure; whether cases retained by the supreme court will be assigned to a panel or the en banc court and to a chambers or the central legal staff consistent with these internal operating procedures; and administers the en banc caseload. In administering the en banc caseload, the chief justice may assign or reassign cases to balance the workload of the individual justices and panels or to ensure the court's efficient operation, giving appropriate notice to the other justices and the court clerk. The chief justice does not sit on a panel except as appropriate to efficiently process the court's caseload or when another justice is disqualified or otherwise unable to sit.

(d) Presiding Justice. The associate justice most senior in current commission on a panel shall act as the presiding justice of that panel; and, in cases where two or more justices are equal in commission, the presiding justice is determined by lot. Each panel's presiding justice administers that panel's caseload, and may assign or reassign cases, giving notice to the other justices on the panel and the court clerk, in order to balance the workload of the panel members or to ensure the efficient operation of the panel. The presiding justice shall cause to be scheduled any events that assist the panel in the disposition of its caseload.

(e) Quorum. A quorum of the full court shall be four and a quorum of the court sitting as a panel shall be two. The concurrence of a majority of the full court or panel is necessary to decide a case. If a panel is unable to reach a consensus, the case shall be decided en banc.

(f) Voluntary Recusal or Disqualification of Justices. A justice may voluntarily recuse or disqualify himself or herself under any circumstances sufficient to require such action. The grounds for disqualification of a justice are set forth in NRS 1.225 and Rule 2.11 of the Nevada Code of Judicial Conduct. The justices may also look to the guidance provided by the ABA's Standing Committee on Ethics and Professional Responsibility in Formal Opinion 488 when evaluating whether the justice's impartiality might reasonably be questioned based on a relationship other than those identified in Rule 2.11 of the Nevada Code of Judicial Conduct. As soon as a justice determines that he or she should be recused or disqualified in a case, the justice

shall promptly notify the court clerk and the chief justice or presiding justice. When appropriate under Rule 2.11(C) of the Nevada Code of Judicial Conduct, the justice should disclose the basis for the disqualification and afford the parties an opportunity to waive disqualification.

(g) Substitutions

(1) Substitutions in Panel Cases. If an associate justice is disqualified from participating in a case, the chief justice will serve on the panel in place of the associate justice. If the chief justice is unavailable to serve as a substitute due to absence or disqualification, the justice most senior in commission who is available shall serve as a member of the panel. If no remaining associate justices are available as a substitute due to absence or disqualification, then a qualified senior justice or district court judge may be appointed to serve as a substitute, as provided in subsection (3) of this rule.

(2) Substitutions in En Banc Cases. To avert a possible tie vote in en banc matters, the court will endeavor to convene a quorum comprised of an odd number of justices before taking the matter under submission. The court may, however, appoint a substitute at any time in cases where the lack of an odd-numbered quorum was not anticipated before submission or where the court's schedule did not allow for a timely substitution.

(3) District Court Judges. An active district court judge possessing the qualifications stated in NRS 2.020 may be assigned to sit in place of a justice as provided by law. A judge is available to sit if not disqualified by law or by voluntary recusal except that, absent extraordinary circumstances, no district judge will be assigned to participate in the disposition of cases originating in their own judicial district or on cases over which a judge from their district has presided as a visiting judge in another district.

(4) Selection of Substitute. The chief justice shall randomly select a substitute district court judge from among the names of those eligible under this rule and forward his or her name to the governor for appointment. The chief or associate chief justice, as appropriate, may also recall for temporary duty a retired justice or senior justice possessing the qualifications stated in Nev. Const. art. 6, § 19, to sit in place of a justice who is disqualified or recused.

(h) Executive Committee. The purpose of the executive committee is to formulate and recommend policies to the court. The executive committee is also authorized to resolve administrative issues either requiring expedited resolution or not warranting the attention of the full court.

(1) The executive committee is comprised of the chief justice, who serves as chair, the incoming chief justice, and an associate justice designated by the chief. Any justice may attend the executive committee's meetings. At the discretion of the chief justice, the court clerk, the director of the Administrative Office of the Courts, and the chief counsel of the central legal staff may be requested to attend the executive committee's meetings.

(2) The executive committee shall meet no less than quarterly. The chief justice shall distribute the agenda by e-mail no less than 3 days before the executive committee meeting, and shall provide the minutes of the meeting within 10 days after the meeting.

Rule 2. Case Management.

(a) Preliminary Jurisdictional and Rule Compliance Check. The clerk's office legal division conducts a preliminary review of the jurisdictional basis for all appeals at or near the time of docketing in accordance with this rule. The clerk's office also monitors all pending cases for compliance with court rules.

(1) Criminal Appeals. In criminal appeals, a preliminary jurisdictional check shall be conducted:

(A) Within 30 days after docketing in pro se appeals and appeals that are subject to NRAP 3C;

(B) Within 30 days after the docketing statement is filed in all other criminal cases.

(2) Civil Appeals. In civil appeals, a preliminary jurisdictional check shall be conducted:

(A) Within 30 days after docketing in pro se appeals;

(B) Within 30 days after briefing is reinstated following the conclusion of settlement proceedings; or

(C) Within 30 days after the docketing statement is filed in counsel cases that are not assigned to the settlement program.

(b) Screening. The clerk's office legal division screens all cases except attorney discipline and death penalty cases. NRAP 5 cases are screened for track assignment purposes only. The purpose of screening is twofold: first, to assist in determining whether the case is appropriate for transfer to the court of appeals or retention by the supreme court, and, if retained, in assigning the case to a supreme court decisional track; and second, to track issues to ensure cases are decided in a consistent and efficient manner. The clerk's office legal division prepares a screening memorandum that includes transfer/retention and assignment recommendations, the basis for those recommendations, and the issues raised in the case.

(1) Timing. Except as otherwise provided in this rule, appeals are typically screened within 30 days after the time for filing briefs has expired. Suppression appeals are typically screened to determine whether the appeal will be entertained within 14 days after the State files its points and authorities showing good cause for the appeal. If a suppression appeal is entertained and briefing is ordered, the appeal is rescreened within 30 days after the time for filing briefs has expired to determine whether the appeal will be transferred or retained and, if retained, the appropriate decisional track. Writ petitions are typically screened within 14 days after docketing to determine whether to transfer the case to the court of appeals. If a writ petition is retained for decision by the supreme court and briefing is ordered, the case is rescreened within 30 days after the time for filing briefs has expired to determine the appropriate decisional track.

(2) Criteria for Retaining or Transferring Cases. The clerk's office will recommend whether to retain a case for decision by the supreme court or transfer it to the court of appeals based on the mandatory and presumptive categories set forth in NRAP 17, the parties' routing statements, and any other relevant considerations including, but not limited to, the courts' respective caseloads.

(3) Issue Tracking and Clustering. The clerk's office legal division will identify the primary issues presented and include them in an issue-tracking database. The clerk's office legal division may recommend that cases raising the same or similar issues be clustered to ensure that they are decided in a consistent and efficient manner. The chief justice, with input from the clerk's office, may identify the lead case in the cluster when appropriate.

(4) Presentation of Screening Recommendations. The screening recommendations shall be presented to the chief justice or a screening panel designated by the chief justice for approval. A screening panel may resolve cases presented to it as appropriate.

(c) Decisional Tracks for Cases Retained by the Supreme Court. Cases retained by the supreme court are assigned to decisional tracks to tailor the decision-making process to the

requirements of each case and thereby provide for its fair and expeditious resolution. There are four decisional tracks: (1) en banc/chambers; (2) panel/chambers; (3) en banc/staff; and (4) panel/staff.

(1) Cases tracked for en banc decision should be those raising substantial precedential, constitutional or public policy issues, or where en banc consideration is necessary to secure or maintain uniformity of the court's decisions. Unless otherwise ordered, the following types of cases shall be assigned to the en banc decisional track as soon as possible after docketing:

(A) Cases involving ballot or election questions;

(B) Cases involving judicial discipline;

(C) Direct and postconviction habeas appeals in capital cases;

(D) Cases involving the approval of pre-paid legal service plans;

(E) Questions of law certified by a federal court;

(F) Disputes between branches of government;

(G) Cases involving the administration of the judicial system;

(H) Cases raising as a principal issue a question of first impression involving the Nevada Constitution; and

(I) Petitions for review of court of appeals decisions.

(2) Cases tracked for panel decision involve analysis of legal issues with limited precedential value or with no impact beyond the litigants.

(3) Generally, the following case types are assigned to the central legal staff: death penalty, attorney discipline, postconviction, and pro se cases. Additionally, writ petitions that are retained and NRAP 5 cases are assigned to central staff for initial review and recommendation. All other cases are assigned to chambers unless otherwise directed by the chief justice or a screening panel designated by the chief justice.

(d) Aging Case Report. The court clerk shall generate and distribute to the justices an aging case report each quarter. The report shall identify by case number and chambers, staff, or clerk's office assignment all matters that have been ready for disposition and pending for more than 180 days without decision. A case is deemed ready for disposition as of the date of its submission or, if the case is not submitted, as of the date of filing of the following: (1) if an appeal, the last merits brief; (2) if an original proceeding, the petition or the answer, if one has been ordered; or (3) the last response, if pending on order to show cause, motion, or venue appeal.

Rule 3. Assignment of Cases.

(a) Upon docketing, cases that are automatically or initially assigned to the en banc court under Rule 2(c) will be designated as en banc. Those cases that are not automatically or initially assigned to the en banc court shall be generically identified "panel" until they are ready for assignment to a particular panel. Cases that are generically identified as "panel" cases upon docketing may be reassigned to the en banc court in screening or as otherwise directed by the chief justice.

(b) For cases retained by the supreme court, the chief justice or a screening panel designated by the chief justice shall determine the decisional track. If a case is assigned to the panel track and a majority of the assigned panel determines that case has been improperly screened, the presiding justice shall direct the court clerk to reassign the case to a different decisional track.

(c) Effect of Panel Rotation. Provided they have deliberated or otherwise considered the case on its merits, the justices serving on the panel at the time a case is submitted for decision shall finally determine the case.

Rule 4. Oral Argument.

(a) Scheduling and Location. The court clerk shall schedule cases for oral argument as directed by the chief justice or presiding justice of the panel. Arguments shall be scheduled, whenever possible, during the first or second full week of the month. En banc arguments are held in Carson City and, at the direction of the chief justice, may be held in Las Vegas or elsewhere in Nevada. Unless otherwise directed by the presiding justice, northern panel arguments should be held in Carson City and southern panel arguments should be held in Las Vegas. If possible, arguments in Clark County cases heard by the northern panel should be held in Las Vegas or an appropriate venue in Southern Nevada. Likewise, if possible, arguments in northern panel cases arising in Washoe County and rural Nevada should be held in Carson City or an appropriate venue in Northern Nevada. Oral arguments shall be scheduled each month either before one of the panels or before the en banc court; however, during July and August, arguments shall be scheduled at the discretion of the chief justice or presiding justice.

(1) Argument Sessions. En banc arguments are normally held during the first week of the month as needed by the court. The panels normally hear oral arguments during the second week of alternate months. When setting the schedule for each argument session, the court clerk shall include all cases that are ready to be argued during that session.

(2) Argument Determination. The chief justice, in consultation with chief counsel of the central legal staff and the court clerk, shall determine which en banc cases require oral argument. The presiding justice, in consultation with the other panel members, determines which cases assigned to the panel require oral argument. If two justices vote to hold oral argument in a panel case, the matter shall be scheduled and heard. The chief justice in en banc cases and the presiding justice in panel cases shall notify the court clerk of the cases requiring oral argument. Unless the court clerk is timely directed to submit a chambers case for decision without oral argument, the court clerk shall schedule the case for oral argument.

(b) Attendance. Each justice shall make every effort to attend en banc and panel arguments in person. The chief justice or the presiding justice may grant limited exceptions to allow appearance by videoconference or to listen to audio recordings at a later date.

(c) Notice. The court clerk shall, if possible, send notice of oral argument to counsel at least 6 weeks before the scheduled hearing date. Reminder notices shall be sent approximately 2 weeks before the scheduled hearing date. The notices shall state the scheduled time and location of the argument, and whether the argument will be en banc or before a panel. If the matter is to be heard before a panel, the notice shall indicate the names of the justices comprising the panel.

(d) Priority. When scheduling appeals for argument, the court clerk shall, pursuant to NRS 177.225, afford priority in calendaring to direct and pretrial criminal appeals. Civil appeals previously processed by this court and appeals raising the following types of issues shall also be afforded priority: (1) the grant or denial of a change of venue; (2) the grant or refusal to grant an injunction; (3) the dissolution or refusal to dissolve an injunction; (4) the establishment or change of child custody or visitation of minor children, including actions seeking termination of parental rights; (5) the denial of a motion to compel arbitration; and (6) appeals arising from a business court. However, when pending cases raise the same or similar legal issues, the court may advance or defer the hearing or consideration of a case so that related issues can be heard at the same time.

(e) Post-Argument Conferences. At the conclusion of each day's argument, or as often during the day as practicable, the justices shall confer on the cases they have heard. Each justice shall be afforded an opportunity to express his or her tentative views. The justices shall attempt to reach a tentative decision regarding the disposition of each case and whether it should be in the

form of a published opinion. Each case is then assigned to a justice for the preparation and circulation of a disposition in accordance with Rule 5(d). The court clerk shall attend the post-argument conferences and record the justices' tentative votes.

Rule 4A. Panel Oral Presentations.

(a) Oral Presentation Panels; Scheduling. A panel may hear oral presentations on cases that are not assigned to the en banc decisional track under Rule 2(c)(1). Oral presentations may be heard by the Northern or Southern panel during alternate months in which the panel is not hearing panel oral arguments. The chief justice may designate a panel to hear oral presentations each month in place of the Northern or Southern panel, such panel to comprise the chief justice, a senior justice, and a member of either Northern or Southern panel. The court clerk shall schedule the oral presentations in Carson City, with panel members participating by videoconference if necessary.

(b) Agenda. The chief counsel of the central legal staff shall determine which matters will be presented to the panel hearing oral presentations, shall provide the panel with a written agenda and, where possible, draft dispositions at least seven working days in advance of the oral presentations.

(c) Attendance. The chief counsel of the central legal staff shall attend each oral presentation.

Rule 5. Assignment and Preparation of Chambers Cases.

(a) Assignment by the Court Clerk. The court clerk shall assign cases to chambers randomly after accounting for any disqualifications or other criteria set by the chief justice. The court clerk shall assign en banc cases to the chambers on a rotating and equal basis. Panel cases shall be randomly assigned to the chambers within the panel. The chambers case assignments shall be made on a schedule determined by the chief justice.

(b) Preparation of Bench Memorandum. A bench memorandum summarizes the relevant facts of a case based on the record, the parties' arguments as set forth in the briefs, and the relevant law; provides an objective and independent analysis of the issues presented by the parties; and recommends a disposition, whether the case should be argued, and whether the case should be reassigned from en banc to panel or panel to en banc. Although the bench memorandum is prepared by the assigned chambers, it is used by all justices participating in the case to assist in understanding the case and deciding whether to hear argument. Accordingly, any justice participating in the case may contact the chambers staff member who wrote the bench memorandum to discuss the case or request additional information about the case. The bench memorandum shall be circulated no later than 30 days after a case is assigned to the chambers, unless the deadline is extended by the chief justice or the presiding justice. The chief justice or presiding justice may extend the deadline on written request by a justice identifying the reason for the extension and the date by which he or she expects to circulate the bench memo. If the extension is approved, the chief justice or presiding justice will notify the court clerk of the new deadline. If the assigned chambers determines that a particular case does not warrant a bench memorandum, that chambers may seek the chief justice's or the presiding justice's approval to dispense with the bench memo in favor of an oral presentation or other expedited action. Copies of bench memoranda in en banc cases must be distributed to each chambers, the court clerk, and the chief counsel of the central legal staff, and may be distributed to such other staff members as a justice or department head directs. Copies of bench memoranda in panel cases must be distributed to the

members of the panel, the court clerk, and the chief counsel of the central legal staff, and may be distributed to such other staff members or justices (not disqualified) as a panel member or department head directs.

(c) Argument Determination. After the bench memorandum has been prepared, the chief justice, in en banc cases, and the assigned panel members, in panel cases, shall review the case to determine whether oral argument is warranted. Generally, oral argument shall be held in those cases raising precedential or public policy issues or involving unsettled areas of the law, or in those cases where oral argument will substantially aid the court in understanding the facts or in resolving the issues. The panel shall also review the case to determine whether it is assigned to the appropriate decisional track. For en banc cases, the chief justice shall inform the court clerk within 15 days after circulation of the bench memorandum whether oral argument should be scheduled and whether the case warrants a change in decisional track. For panel cases, the presiding justice shall collect the panel's votes and inform the court clerk within 15 days after circulation of the bench memorandum whether oral argument should be scheduled and whether the panel suggests a change in decisional track. The court clerk shall schedule oral arguments and re-track cases as directed by the chief justice and presiding justices. A case submitted without argument to the en banc court at the chief justice's direction may be scheduled for argument after review by the en banc court.

(d) Disposition. If the justice assigned to the case is in the majority, he or she shall write the disposition voted by the majority. If the justice assigned the case is not in the majority, the chief justice or the presiding justice in panel cases shall select another justice to write the disposition for the majority and that justice may supervise a staff member from the chambers assigned the case, a member of his or her chambers staff, or a central staff attorney in preparing the disposition. For any panel case assigned to the chief justice's chambers, the presiding justice shall select a member of the panel to supervise the chief justice's staff in preparing the disposition. When a draft disposition is prepared, the author shall check the issue-tracking database to ensure the draft disposition is prepared with a full awareness of the court's other pending cases with the same or similar issues.

(e) Editing. Chambers dispositions shall be edited by an editing team supervised by the head of the clerk's office legal division. If the disposition is an opinion, it shall also be edited by a central staff attorney.

(1) Chambers Deadline. Once a case is deemed submitted, the court clerk will schedule a deadline for a draft disposition of either 60 or 90 days, pursuant to IOP 8(a).

(2) Central Staff. If the draft disposition is an opinion, it shall be reviewed by a central staff attorney for major substantive errors before the draft is sent to the editing team under paragraph (e)(3) of this rule. If the draft is an order, the originating chambers may request a substantive review by central legal staff before sending the draft to the editing team. At the justice's direction, the chambers judicial assistant shall send the draft to the staff attorney assigned to review the chamber's drafts or to chief counsel of the central legal staff for assignment to another staff attorney based on expertise and availability.

(A) The chief counsel shall record in C-Track which staff attorney has been assigned to review the draft and the date the draft was sent to that staff attorney.

(B) Central legal staff shall have 7 working days from receipt of the draft to review it for major substantive errors and return an edited copy to the originating chambers.

(3) Editing Team. On or before the deadline under paragraph (e)(1) of this rule, the chambers judicial assistant will forward a draft to the editing team and notify the presiding or chief justice and the court clerk that the draft has been sent. The date the draft is sent to the editing team will be recorded in C-Track. The editing team shall have 7 working days from receipt of the draft to edit and cite- and source-check the draft and to return it to chambers. When the draft is returned to the originating chambers, the chambers will incorporate the edits as promptly as practicable.

(4) Extensions of Time. The editing team or central legal staff may request an extension of time from the originating chambers in advance of the deadlines provided in paragraphs (e)(2) and (e)(3) of this rule.

(5) Rejection of Substantive Edits or Comments. If the originating chambers has rejected substantive edits from the editing team or central staff, the chambers shall circulate a short memo or comments in redline tracked changes to the other justices on the case, setting out the rejected substantive edit(s) and explaining the reason for rejecting those edits. Chambers other than the originating chambers may request copies of the editing team's and central staff's edits directly from the originating chambers.

(6) Draft Circulation. Once editing is complete, the draft can be circulated for the next available conference. The chambers judicial assistant shall identify in the comment section of the distribution tag affixed to the circulated draft which staff attorney(s), if any, edited the draft under paragraph (e)(2) of this rule, and which clerk attorney(s) edited the draft under paragraph (e)(3) of this rule.

Rule 6. Assignment and Preparation of Staff Cases.

(a) Assignment of Cases. The chief counsel of the central legal staff or a supervisory attorney shall monitor the caseloads of the staff attorneys and make case assignments based on appropriate considerations, such as subject-matter specializations and case age.

(b) Presentation of Cases. Except for death penalty appeals, cases assigned to the central legal staff may be presented to the court by oral presentation, portable agenda, panel conference, or en banc conference.

(c) Cases Requiring a Bench Memo. A staff attorney shall prepare a bench memorandum in each death penalty appeal, unless the chief justice approves a different manner of presentation, and in each staff case where the court has decided to hear oral argument and requested a bench memorandum. The bench memorandum shall be circulated no later than 60 days before the scheduled oral argument date. Where that deadline cannot be met in cases requiring emergency consideration or cases selected for oral argument following a staff oral presentation, chief counsel of the central legal staff shall consult with the chief justice or presiding justice to establish an appropriate deadline and shall notify the other justices participating in the case of that deadline.

(d) Oral Presentation Cases. Draft dispositions for cases selected for oral presentations shall be circulated no later than 7 working days before the oral presentation date, except as otherwise provided in this rule. In emergency situations, chief counsel of the central legal staff may add a case to the oral presentation agenda less than 7 days before the oral presentation date. If a case on the oral presentation agenda is passed for further consideration, it shall be placed on a conference agenda and any revised disposition or memorandum must be circulated as soon as possible, but in no event more than 30 days after the date of the oral presentation. If the panel directs staff to prepare an opinion in a case on the oral presentation agenda, the case is deemed submitted on the date of the oral presentation and the time limits in Rule 6(f)(1) shall apply. If the

panel decides to hear oral argument, the assigned staff attorney shall prepare a bench memorandum unless the panel directs otherwise.

(e) Cases Presented at Conference. At the discretion of the chief counsel and with the assigned staff attorney's input, a case assigned to central staff may be presented to the court at a conference. The staff attorney shall prepare a memorandum and, whenever possible, a proposed draft disposition for the court's consideration. The memorandum and any proposed disposition shall be circulated before the applicable conference deadline. If the case is assigned to the panel staff track and a panel has not yet considered the case on the merits, it shall be assigned to the panel scheduled to hear oral presentations during the month when the memorandum and any proposed disposition are ready for circulation. If a member of that panel is disqualified, the case may be assigned to the other panel or the chief justice may be substituted in place of the disqualified justice.

(f) Disposition Following Oral Argument or Vote. Under the supervision of the chief counsel of the central legal staff, a staff attorney shall prepare a disposition consistent with the majority vote in any staff cases that have been argued or considered for discussion only at oral presentations or conference. The chief justice or the presiding justice may assign a justice to supervise the staff's preparation of the disposition.

(1) Time Limits. Once a majority is determined in a staff case that has been argued or considered for discussion only at oral presentations or conference, the matter will be deemed submitted. If the majority is determined at oral presentations, the chief counsel of the central legal staff shall notify the court clerk so that the deemed submitted date can be recorded in C-Track. The central staff shall circulate a draft disposition within 90 days after the deemed submitted date in en banc cases and within 60 days after the deemed submitted date in panel cases. If a subsequent conference produces a new majority, the new majority draft shall be circulated within 45 days from the date the vote changes in en banc cases and within 30 days in panel cases. If a majority of the court or panel determines that a staff case constitutes an emergency, the timelines to prepare a disposition shall be suspended and the chief counsel of the central legal staff shall consult with the chief justice or presiding justice to establish deadlines consistent with the emergency nature of the matter.

(2) Extensions of Time. The above time limits may be changed by the chief justice or presiding justice when extraordinary circumstances preclude timely circulation. When a case is reassigned from chambers to staff, the matter will be deemed submitted when the court or panel has agreed upon a disposition and the case has been reassigned to staff.

(g) Aging Case Report. The chief counsel of the central legal staff shall report to the chief justice each quarter as to all cases, except capital cases, that have been assigned to the central legal staff for more than 120 days without a memo and/or disposition being circulated.

Rule 7. En Banc Conferences and Panel Conferences.

(a) Scheduling. Under the direction of the chief justice, the court clerk shall schedule en banc conferences in Carson City or Las Vegas for consideration of en banc cases and administrative matters. Under the direction of the presiding justices, the court clerk shall schedule panel conferences in Carson City or Las Vegas for consideration of panel cases.

(b) Attendance. Each justice shall make every effort to attend en banc and panel conferences in person or by videoconference, if circumstances require. The chief justice or the presiding justice may grant limited exceptions. The court clerk shall also attend unless otherwise directed by the court.

(c) Draft Circulation and Deadline. Copies of draft decisions in en banc cases must be distributed to each chambers, the court clerk, and the chief counsel of the central legal staff, and may be distributed to such other staff members as a justice or department head directs. Copies of draft decisions in panel cases must be distributed to the members of the panel, the court clerk, and the chief counsel of the central legal staff, and may be distributed to such other staff members or justices as a panel member or department head directs. Except as provided below, drafts for consideration at a conference must be uploaded into the case management system and circulated, with notification by e-mail link to the Las Vegas chambers, no later than 3 p.m. on the scheduled draft distribution deadline date. The court clerk shall set the distribution deadline at least 8 judicial days before the conference, if the court's schedule permits. Central legal staff may add items to the draft conference agenda, provided the proposed draft is distributed at least 8 days before the conference. The practice of adding items to the agenda before distribution of a draft is discouraged but not prohibited; however, the chief justice or presiding justice must approve adding a case to an agenda if the draft is not timely distributed.

(d) Agenda. The court clerk, based on the drafts distributed, prepares the conference agenda for the en banc and panel conferences. To ensure that conferences are productive, the chief justice or presiding justice shall work with the court clerk to limit the items placed on the agenda to those that are ready for discussion or further action by the justices. The court clerk shall distribute the agenda by 3 p.m. 7 judicial days before the start of the conference. Unless unavailable, the justice presiding over the conference shall approve the conference agenda before distribution. After the agenda is distributed, no case shall be removed or added without a showing of good cause and the express authorization of the justice presiding over the conference. Notwithstanding the provisions of this rule, the chief justice or presiding justice may add an item to the agenda at any time. Copies of the agenda shall be provided to each justice, judicial assistant and law clerk, chief counsel of the central legal staff, each central staff attorney and assistant, and each assistant and deputy clerk.

(e) Discussion and Voting. All final drafts of opinions and orders shall be considered along with such other matters on the agenda as may be requested by the chief justice or any of the other justices. Each justice shall have the opportunity to be heard on each case or agenda item before a final vote is taken. The court clerk shall record the vote and any other action taken with respect to each agenda item, and, as soon as practicable after the conference, shall prepare and distribute a conference report to all justices and staff members receiving the agenda.

(1) Disqualifications. A justice who is recused or otherwise disqualified from participating in the disposition of a matter shall leave the conference room during any discussion of the matter. Further, any input by a disqualified justice as to the substance of the case is prohibited and no member of the disqualified justice's chambers shall have access to such matter through C-Track.

(2) Panel Cases. If a justice is not a member of the panel assigned to decide a matter, the justice shall likewise leave the conference room during any such discussion, even if the justice is not disqualified from deciding the matter. Except in connection with a request for en banc consideration, a justice not on the panel should avoid any input as to the substance of the case.

(f) Passes. A justice may request that a case or matter on a conference agenda be passed to the next conference or, with the approval of the chief justice or presiding justice, to a later conference. Such a request shall be honored unless the chief justice or presiding justice determines that the matter is of such extreme urgency that issuance of an immediate disposition is necessary.

When a matter that previously was passed next appears on an agenda, the justice who requested that the case or matter be passed may request another postponement only for an emergency or highly unusual situation and with the consent of the chief justice or presiding justice. If a majority is ready to sign a final opinion concerning a case that appeared on a previous agenda and was passed, that opinion shall be signed and filed unless a further postponement is granted. The justices who do not agree with the majority may designate how they would like to have their participation in the case designated, i.e., concurrence, concurrence in result only, or dissent. If no particular designation is given by a justice, the justice shall be deemed to have concurred. If a majority is not prepared to sign a final opinion, the case or matter shall be placed on the next conference agenda.

Rule 8. Time Limits for Preparing Dispositions.

(a) Majority Decision. Once a majority is determined at the post-argument or submitted case conference, the matter will be deemed submitted and the justice responsible for preparing the order or majority opinion shall be designated pursuant to Rule 5(d). The author of the order or opinion shall prepare a draft disposition for circulation within 90 days after submission in en banc cases and within 60 days after submission in panel cases. In the absence of a majority at the initial conference, the matter shall be continued until a subsequent conference produces a majority. At that time, the submission date will be determined as in the first post-argument or submitted case conference. If a subsequent conference produces a new majority, the new majority draft shall be circulated within 45 days from the date the vote changes in en banc cases and within 30 days in panel cases. This rule shall apply to staff cases equally as to chambers cases.

(b) Concurrence or Dissent. Any justice desiring to submit a dissenting or concurring opinion, or memorandum containing additional authority, shall do so within 45 days from the time the majority draft has been distributed in en banc cases and within 30 days in panel cases. If a justice in the majority wishes to prepare a separate opinion or other draft to the position stated in a concurrence or dissent, that justice shall have 30 days to prepare his or her opinion or other draft from the date of circulation of the draft to which he or she is responding. If the draft by the dissenting or concurring justice is not timely circulated, the opinion may be signed and filed pursuant to Rule 7(f) with only an appropriate notation, such as ''I dissent'' or ''I concur in the result only.''

(c) Revisions to Majority and Separate Opinions. Upon circulation of a separate opinion, whether a concurrence or dissent, the author of the majority opinion has 14 days to revise the majority opinion. Any justices writing separately then have 14 days to revise the separate opinion in response to the revised majority opinion, but the revision of the separate opinions shall respond only to revisions in the majority opinion. If the author of the majority opinion determines that no further revisions to the majority opinion are needed in response to the revised separate opinions, there shall be no further changes to the majority or separate opinions in response to each other except as permitted by the chief justice or the presiding justice.

(d) Unsigned Drafts. An unsigned draft disposition must be edited and re-circulated within 30 days of the original draft conference.

(e) Extensions of Time. The above time limits may be changed by the chief justice or presiding justice when appropriate cause is shown. When a case is assigned to a justice other than at a post-argument conference, the matter will be deemed submitted when a majority of the court or panel has agreed upon a disposition and a justice assigned to prepare the disposition.

(f) Emergencies. If a majority of the court votes that a matter constitutes an emergency, the timelines to prepare a disposition, including dissents or concurrences, shall be suspended and deadlines consistent with the emergency nature of the matter shall be established by the chief justice or the presiding justice.

Rule 9. Orders and Opinions.

(a) Manner of Disposition. The court or assigned panel shall decide how a case will be disposed of, either by order or opinion. An opinion shall be prepared if the case presents a novel question of law, an issue of public importance, or sets a new legal precedent. An opinion shall not be mandatory when reversing a judgment that does not involve the above. Although it is contemplated that panel decisions would be by order, a panel may publish its decision when a significant new point of law is involved.

(b) Per Curiam vs. Authored. Opinions shall be authored unless the disposition is unanimous and a majority of the participating justices agree to designate the opinion as "per curiam."

(c) Electronic Version of Opinions. When an opinion is submitted to the court clerk for filing, the author shall provide the court clerk with an accurate, electronic copy of the opinion. The author shall ensure that the electronic copy is in proper format for publication on the Internet.

(d) Circulation of En Banc Opinions. Before filing and publication, the court clerk shall circulate copies of all en banc opinions to every justice and all court attorneys. The purpose of the circulation is to determine whether there is a conflict with filed or draft opinions and to flag any gross errors in content or style. A staff attorney designated by central staff legal counsel shall check the opinion for conflicts and notify the author of any significant, potential inconsistencies with existing caselaw or inconsistencies with other proposed dispositions. The clerk's office shall review the opinion for technical and procedural accuracy, and finalize the opinion for publication on the Internet. Unless otherwise notified within 5 calendar days of circulation, the court clerk shall file and publish the opinion. Absent extraordinary circumstances and the authorization of the chief justice, opinions shall be filed and published on Thursday.

(e) Circulation of Panel Opinions. Rule 9(d), governing the circulation of en banc opinions, applies equally to the circulation of panel opinions, except when a panel opinion proposes to overrule or disapprove of a prior decision of this court, in which event:

(1) The draft opinion shall include a cover memo stating that the draft proposes to overrule or disapprove of existing case precedent;

(2) The circulation time shall be extended from 5 to 14 calendar days, so that any interested justices may request en banc review pursuant to Rule 13(b); and

(3) If en banc review is not requested as provided in Rule 13(b), the opinion shall contain a footnote worded, depending on the circumstances, in substance as follows:

> This opinion has been circulated among all justices of this court, any two of whom, under IOP 13(b) may request en banc review of a case. The two votes needed to require en banc review in the first instance of the question of (e.g., overruling McConnell v. State) were not cast.

A justice not a member of the panel deciding a matter should avoid substantive input into a circulated draft beyond requesting en banc review as provided in Rule 13(b).

Rule 10. Deciding Cases on Points Not Argued. If the court determines to decide a case upon the basis of a significant point not raised by the parties in their briefs, it shall consider requesting additional briefing and oral argument before issuing a disposition predicated upon the particular point.

Rule 11. Petitions for Rehearing.

(a) Assignment. A petition for rehearing of a panel decision is assigned to and reviewed by the panel that decided the case. If the panel determines that rehearing is warranted, rehearing before that panel will be held. The full court shall consider a petition for rehearing of an en banc decision, but only those justices participating in the challenged decision shall determine whether rehearing is warranted.

(b) Initial Determination Required. When a petition for rehearing is filed, the court clerk shall circulate copies of the petition to each justice participating in the decision of the matter and shall schedule the petition for discussion at a conference no later than 45 days from the filing of the rehearing petition. The justices shall then determine whether to deny the petition summarily or to order an answer to the petition and shall direct the court clerk's office to prepare the appropriate order.

(c) Determination When Answer Ordered. When the answer to the rehearing petition is filed, the court clerk shall circulate copies of the answer to each justice participating in the decision of the matter and shall schedule the rehearing for discussion at the next conference. The justices shall then determine whether to grant rehearing and, if rehearing is to be granted, whether additional briefing or oral argument is warranted. Summary denial or correction of the panel's decision may also be ordered.

(d) Action by Court if Rehearing Granted. If rehearing is to be granted, an order granting rehearing and reinstating the matter shall be signed and filed as soon as practicable after the determination is made. Once a majority has been determined, the matter will be deemed submitted for decision and the justice to prepare the order or majority opinion shall be designated pursuant to Rule 5(d). The time limits for preparation of a disposition on rehearing are determined pursuant to Rule 8.

(e) Correction of Decision on Denial of Rehearing. When the court determines to correct a decision, the corrected decision shall issue as soon as practicable after the determination is made. If the corrected decision is not signed and filed within 30 days, the court clerk shall schedule the rehearing for discussion at the next conference.

Rule 12. En Banc Reconsideration.

(a) Review and Determination of Petitions. All petitions for en banc reconsideration are reviewed and determined by the full court. When a petition for en banc reconsideration is filed, the court clerk shall circulate copies of the petition to all justices and shall schedule the matter for discussion at the next en banc conference. The justices shall determine whether to grant or deny the petition summarily or to order an answer to the petition and shall direct the clerk's office to prepare the appropriate order. If an answer to the petition is filed, the court clerk shall circulate copies of the answer to each justice participating in the decision of the matter and shall schedule the petition for discussion at the next conference. A single justice may order an answer to the petition and may, with the concurrence of any other justice, direct that the panel's decision be stayed or vacated pending further consideration of the petition.

(b) Request by a Justice. A justice may request en banc reconsideration of a case at any time before issuance of the remittitur. The justice shall make the request to the presiding justice of the panel assigned the case and provide all other justices and the court clerk with notice of the request.

(c) Grant or Denial of En Banc Reconsideration. When two or more justices vote to reconsider a panel decision, en banc reconsideration shall be granted. However, if the justices voting in favor of reconsideration consent to the majority's decision to deny reconsideration, their dissent shall be duly noted on the order denying en banc reconsideration. An order granting en banc reconsideration may be signed by a single justice, but the full court shall sign an order denying en banc reconsideration.

(d) Action by Court if Reconsideration Granted. If en banc reconsideration is to be granted, an order granting en banc reconsideration and reinstating the matter shall be signed and filed as soon as practicable after the determination is made. Once a majority has been determined, the matter will be deemed submitted for decision and the justice to prepare the order or majority opinion shall be designated pursuant to Rule 5(d). The time limits for preparation of a disposition on en banc reconsideration are determined pursuant to Rule 8.

Rule 13. En Banc Review in the First Instance.

(a) Request by a Party. If a party moves for en banc review of a case in the first instance, the assigned panel shall consider the motion. Upon a showing that the case meets the criteria for en banc review set forth in Rule 2(c)(1), the motion shall be granted if it appears that a panel decision would result in a significantly different opinion from an en banc decision.

(b) Request by a Justice. A justice may request en banc consideration of a panel case at any time before final disposition of a case. The justice shall make the request to the presiding justice of the panel assigned the case and provide all other justices and the court clerk with notice of the request. The request shall be granted if concurred in by any other justice and an order to that effect shall be signed and filed.

Rule 13A. Petitions for Review of a Court of Appeals Decision.

(a) Decisional Track and Scheduling. All petitions for review are considered and decided by the full court. When a petition for review is filed, the court clerk shall circulate copies of the petition to all justices and shall schedule the matter for discussion at the next en banc conference. If the court orders a response, the court clerk shall circulate copies of the response to all justices and shall schedule the matter for discussion at the next en banc conference.

(b) Assignment. The court may direct that a petition for review be assigned to the central legal staff. If the court does so, the chief counsel shall assign a staff attorney to review the petition and any response and prepare a memo and draft order.

(c) Disposition of Petition. The court en banc shall determine whether to deny the petition summarily or to order a response. A petition will be granted only upon the affirmative vote of a majority of the justices.

(d) Assignment of Case When Petition Granted. When a petition is granted and following any additional briefing ordered by the court, the case shall be assigned to the en banc chambers track unless the chief justice directs otherwise. The case shall then be assigned to a chambers and resolved in the same manner as a retained case.

Rule 14. Emergency Proceedings.

(a) When a matter is filed and designated as an emergency, the clerk's office legal division will review the case to confirm that it qualifies as an emergency and identify the critical legal issue(s) presented. Emergencies will proceed as follows:

(1) In cases already assigned to a panel, the emergency will be resolved by that panel.

(2) In all other cases, the clerk's office legal division will contact the chief justice. The chief justice, or the chief justice's designee, shall confirm the legal division's assessment of whether the matter qualifies as an emergency and determine whether the matter will be transferred to the court of appeals or retained by the supreme court, and if retained, whether it can be resolved by the panel designated to hear emergencies that month through an e-mail portable agenda, with a short explanation and proposed order or orders provided to the panel members The presiding justice and the panel may reserve the right to request a formal presentation of the emergency motion by the legal division.

(3) Each justice shall designate an alternate justice to sit in the event that he or she is unavailable. If the designated alternate is unavailable or disqualified, the chief justice shall fill in.

(4)The emergency panel consists of the panel that is currently scheduled to hear oral presentations that month. During the months of July and August only, the Southern Panel shall consider any emergencies that are presented from July 1 through July 15 and August 16 through August 31; the Northern Panel shall consider any emergencies that are presented from July 16 through July 31 and August 1 through August 15.

(b) Whenever possible, the legal division should prepare a proposed disposition.

Rule 15. Motions.

(a) Priority of Motions. All non-pro se motions will be assigned a priority status of 1 through 4 when they are received. Priority status is as follows:

(1) Priority 1: All emergency motions. These motions should be resolved immediately.

(2) Priority 2: All motions for stays (other than emergencies), and motions relating to briefing, e.g., extensions of time in the briefing schedule, permission to file briefs in excess of page limitations, permission to file amicus briefs, etc. These motions should be resolved within 2 weeks unless required to be placed on an agenda (e.g., a non-emergency motion for stay accompanied by a staff memorandum).

(3) Priority 3: All motions regarding the contents of the record, preparation of transcripts, extensions of time for responding to a prior order of this court, or other motions in cases where briefing has not been completed. These motions should be resolved within 30 days.

(4) Priority 4: All other motions, e.g., motions to dismiss appeals, motions for bail (other than emergencies), motions to strike parts of the appendix or the briefs, and any other motion requiring a significant investment of time to resolve. These motions should be resolved within 60 days.

(b) Disposition of Motions. Under the chief justice's direction, the clerk's office legal staff will prepare orders for all procedural motions. The chief justice will determine which types of orders may be filed with a justice's signature stamp and which orders must be presented to the chief justice (or designated justice) for approval.

(c) Orders of Dismissal. The court clerk, or such assistant or deputy clerks as the court clerk may designate, is authorized to enter orders of dismissal in civil cases where the appellant has filed a motion for the voluntary dismissal of an appeal or where the parties to an appeal or other proceeding have signed and filed a stipulation that the proceeding be dismissed, specifying terms as to the payment of costs, or where the filing fees have not been paid.

(d) Motions for Reconsideration. A motion for reconsideration of an action taken by the court clerk's office is decided by the chief justice or, if the chief justice is unavailable, the justice next most senior in commission who is available. Opposition to a motion received after action has been taken by the court clerk's office is treated as a motion for reconsideration.

(e) Limitations on Court Clerk's Authority. Regardless of the delegation of authority herein, the court clerk or the central legal staff shall present to the court any motion or order involving complex facts or unsettled law, presenting novel or unique situations, or compelling the establishment of a new policy or approach.

(f) Oral Presentations. Any procedural matter requiring the chief justice's approval will be presented at oral presentations to be held weekly or as determined by the chief justice.

Rule 16. Confidentiality. All events and actions taken in administrative matters or in the preparation and circulation of draft opinions or orders, bench memoranda, and memoranda and correspondence between chambers or staff concerning pending cases shall be confidential, as shall the events, action, and votes that are taken at any draft or post-argument conference. The contents of orders or opinions shall remain confidential until filed by the court clerk and released to the public. Any material violation of Rule 16 shall constitute a per se violation of NCJC Rule 2.5.

Rule 17. Application and Effective Date of Rules. These rules take effect on February 13, 2020, and govern all proceedings in actions commenced in this court after the effective date. These rules govern all further proceedings in actions pending in this court on the effective date, unless in the opinion of the court their application in a particular pending action would not be feasible or would work an injustice, in which event the former procedure applies.

APPENDIX 1

DRAFT DISTRIBUTION DEADLINES

First Draft:

From Deemed Submitted Date:

- Panel—60 days
- En Banc—90 days

Concur/Dissent:

From First Draft Distribution Date:

- Panel—30 days
- En Banc—45 days

New Majority:

From Date Votes Change:

- Panel—30 days
- En Banc—45 days

Transfer from Panel to En Banc:

From Date En Banc Court Considers Merits (oral argument or draft conference following transfer):

- Determine on a case-by-case basis

Majority on Rehearing or Reconsideration:

From Deemed Submitted Date:

- Panel—60 days
- En Banc—90 days

APPENDIX 2

TRANSMITTAL OF EDITS AND CONFERENCE MATERIALS TO LAS VEGAS

In order to ensure timely receipt of draft dispositions and agendas, the following guidelines are adopted. Las Vegas chambers shall receive automatic notification from the case management system of any drafts uploaded to the system involving the justices chambered in Las Vegas. Justices who maintain chambers in Carson City may elect to receive automatic notification for all of their cases. If a draft or set of edits are circulated after the deadline set forth in Rule 7(d), the circulating chambers or staff shall e-mail copies of the circulation to all justices involved in the case, regardless of location.

Agendas, post-argument notes, conference notes, chambers assignments, and calendars distributed by the court clerk shall be scanned and e-mailed to the Las Vegas chambers when they are distributed to the Carson City chambers, with a hard copy placed in the interdepartmental mail.

Agendas, memos, and draft orders for oral presentations that have been generated by central staff should be scanned and e-mailed to the Las Vegas chambers and a hard copy placed in the interdepartmental mail.

APPENDIX 3

The court shall follow Bluebook conventions in its memos, orders, and opinions except that parallel citations need only be used for cases reported in the Nevada Reports and, in lieu of ''Nev. Rev. Stat.,'' the official ''NRS'' form shall be used in citing to the Nevada Revised Statutes.

These Internal Operating Procedures are approved effective February 13, 2020.

_____, C.J.
Pickering

_____, J.
Gibbons

_____, J.
Hardesty

_____, J.
Parraguirre

_____, J.
Stiglich

_____, J.
Cadish

_____, J.
Silver