INTERNAL RULES
OF
THE IDAHO SUPREME COURT

Adopted: October 22nd, 2026, superseding all prior internal rules of this Court

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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 of the Courts, 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. 5, § 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.

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

   b. 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 photographs 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 the 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. **CLERK OF THE COURTS.**

a. The Clerk of the Courts shall be appointed and serve at the pleasure of the Court and perform such duties as required by the stature and the direction of the Court.

b. The Clerk of the Courts is authorized to enter orders on behalf of the entire Court in certain matters when unopposed unless the Clerk determines that the Motion Justice(s) or Senior Staff Attorney should consider the matter. Those matters and order are identified on Schedule A.

c. Attendance at Court Terms. The Clerk or a designee of the Clerk shall attend all hearings and make arrangements for courtroom and other facilities in ample time prior to each term.

8. **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 chambers until the time the opinion is distributed to the public.

a. "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 about 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 confidential.

9. **PREPARATION OF CASE CALENDAR, ASSIGNMENT OF CASES AND PREHEARING MEMORANDA.**

a. 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 any assignment. If no objection is filed within seven days, the assignment shall be final. Any objection to the assignment shall be stated, with reasons, via email, and circulated to all Justices. If a majority of the Justices concur in the objection within the balance of the seven-day period or within three 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 case conference.

b. At least thirty days prior to any scheduled terms of court, the Clerk of the Courts shall prepare a proposed calendar of cases then at issue and ready for argument before the Court.

c. Each case on the approved calendar shall be chosen by lot by the Justices' Law Clerks or Judicial Assistant. Upon random selection, such case will be assigned to that Justice.

d. Each assigned Justice shall be responsible for preparation of a prehearing memorandum for that case. The prehearing memorandum will be circulated to the Justices at least seven days prior to the opening of the term, unless otherwise authorized by the Chief Justice.

e. The 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 should include a recommended decision on any or all issues.

f. 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 Courts.

10. **ORAL ARGUMENT – JUSTICE'S ABSENCE.**

Upon request, the Chief Justice will excuse a Justice from being physically present at oral argument. That Justice will 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 or videoconference.

11. **ORAL ARGUMENT – CONFERENCE.**

For cases including a pro tem Justice, conference will be held immediately following such argument. For all other cases, if all Justices have heard oral argument, the Court will convene in a brief oral conference at the conclusion of all hearings for the day, with no more than one hour (20 minutes per case) allotted to the oral conference. Discussion of the cases will be opened by the Justice whose chambers prepared the prehearing memorandum; these remarks being presented without interruption. Thereafter, each Justice in inverse order of seniority may discuss the case without interruption. Each Justice will conclude with an indication of their proposed disposition of the case. If necessary, following the initial discussion by each Justice, the discussion will go around the table a second time in the same order. At the conclusion of the conference, the Justice whose Law Clerk(s) prepared the prehearing memorandum will draft the initial semifinal.

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.

12. VOTING CALENDARS.

Each Justice's Judicial Assistant will have access to the voting calendar via the digital record and will enter the Justice's votes. Each Justice shall vote the calendar by use of one of the following designations:

- Concur. The Justice joins the majority opinion in full.
- Special Concurrence. The Justice agrees with the result reached by the majority and generally agrees with its reasoning but writes separately to express additional or clarifying views. A special concurrence ordinarily is accompanied by a written opinion.
- Concur in Result. The Justice agrees with the ultimate disposition of the case but does not agree with all or part of the reasoning expressed in the majority opinion. A concurrence in result ordinarily is accompanied by a written opinion explaining the differing rationale.
- 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.

13. 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 will reassign the case to another Justice who shares the majority view. At the drawing of cases for the next term, the first Justice may 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.

14. OPINIONS.

a. Semifinal Opinions. After a semifinal opinion has been prepared, it will be circulated among the other Justices by email. The semifinal opinion will be edited by all Justices by entering suggestions, nits and comments via "track changes" in Microsoft Word on the 5 Chambers Drive shared by all Justices and JAs. All suggestions relating to personal writing style may or may not be accepted by the authoring Justice. Substantive suggestions will either be accepted by the authoring Justice or discussed to resolution at the first case conference after all Justices have weighed in on the opinion at issue.

b. Dissenting or Concurring Opinions. Any Justice desiring to submit a dissenting or concurring opinion shall so notify, via group email or at case conference, the author of the opinion and the other members of the Court. That Justice has 30 days after the email notification or case conference to submit such an opinion to the rest of the Justices via group email.

c. Final Opinion. After a final vote on a semifinal opinion has been made at case conference, the authoring Justice and their chambers will finalize the opinion, create a short summary for the Court's website, and a summary of the opinion suitable for use by the public and media. The opinion will then be transmitted electronically to the Clerk of the Courts for publication and distribution to the litigants.

d. One Opinion. The authoring Justice's chambers will cause the dissenting or concurring opinion to be attached to the majority opinion, thereby becoming one document. All opinions shall then be filed and released at the same time.

e. Per Curiam Opinions. Any opinion of the Court may be issued as a per curiam opinion. In that event, the authoring Justice's chambers will be responsible for taking all steps necessary to finalize the opinion as set forth under subsection (a) of this Rule.

f. 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.

g. Uniform System of Citation. Citations appearing in opinions shall be in conformity with the rules of this Court and if not therein covered, in conformity to the greatest degree possible with (1) *The Redbook: A Manual on Legal* Style, by Bryan A. Garner, Jeff Newman and Tiger Jackson; and (2) *The Bluebook: A Uniform System of Citation*, published and distributed by the Harvard Law Review Association and Columbia Law Review Association.

h. 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.

i. 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 or the Public Information Officer, 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.

j. Allegations of Misconduct. 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 may be confidential in nature and, therefore, allegations of ethical violations are to be entertained and processed pursuant to applicable rules of the Court or the Idaho State Bar. A referral to either the Idaho Judicial Council or the Idaho State Bar 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.

15. **ORIGINAL PROCEEDINGS, PETITIONS AND MOTIONS.**

Applications for original writs, petitions for review, petitions for rehearing, and all other petitions, motions or preliminary matters, shall be processed by the Motion Justice(s). The Motion Justice(s) has authority and is authorized to enter orders on behalf of the entire Court without input from the other justices, subject to the sole discretion of the Motion Justice(s) as set forth in the attached Schedule B.

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 Courts that such Justice intends to write a dissent on denial of rehearing will have seven 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 may be designated by the Chief Justice to vote on the petition for review.

16. **CASE ORAL CONFERENCES.**

Oral Conferences for case discussion will generally be held once per month on a schedule determined by the Court up to one year in advance. Additional case conferences may be held upon agreement of the Court at other times convenient to all Justices. Justices may appear at such conferences via videoconference.

a. **AGENDA:** The agenda for case conference will be compiled by the Chief Justice's JA, with the initial draft being circulated by email to the Judicial Assistants one week before case conference. The proposed agenda will be circulated by email to the Judicial Assistants and the Justices three business days before case conference. The final agenda will be circulated to the Justices, Pro tem Justices, the Clerk of the

Courts and Judicial Assistants 24 hours before the conference is scheduled to begin. Absent emergency, no changes will be made to the agenda after that point.

b. **MINUTES:** Minutes of the conference will be kept by the Chief Justice, who shall cause a draft of the proposed minutes of the proceedings to be prepared, reflecting the vote of each Justice as necessary. The draft of the proposed minutes shall be circulated to the Justices for their approval prior to insertion into the Minute Book of the Court. The Justices will approve such minutes by email within three days of their transmittal to the Justices.

17. **ADMINISTRATIVE ORAL CONFERENCES.**

Administrative Oral Conferences shall generally be held monthly. Those required to attend, unless excused, will be the five Justices of the Court, the Administrative Director of Courts, the Administrative Office of Court's legal counsel, and an administrative assistant tasked to take minutes. Others may be invited to appear and provide information to the Court. The materials for such conferences will be disseminated electronically and in hard copy (if requested by the Justice) no later than five working days before the conference is to be held. Matters to be discussed on the agenda for such a conference should be finalized no later than three business days before the conference is scheduled to begin. Such conferences will be presided over by the Chief Justice but conducted by the Administrative Director of Courts. The Conference will generally be conducted under the Roberts Rules of Order, with the Chief Justice voting on matters that require the Court's approval.

18. **ADMINISTRATIVE CONFERENCES.**

Administrative conferences shall be held three times per year as required by I.C.A.R. 43(b) and will be governed by the requirements of that Rule.

19. **PREPARATION AND APPROVAL OF MINUTES.**

Following any official action of the Court (other than case conference or administrative oral conference), the Chief Justice shall cause to be prepared a draft of the proposed minutes of the proceedings, reflecting the vote of each Justice as necessary. The draft of the proposed minutes shall be circulated to the Justices for their approval prior to insertion into the Minute Book of the Court.

20. **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.

21. **PUBLIC INFORMATION OFFICER.**

The Court's public information officer will act as spokesperson for the Court and operate under the direction and supervision of the Administrative Director of Courts. He or she shall advise news media of official Court functions and rulings in appropriate cases.

SCHEDULE A

The Clerk is authorized to enter orders on behalf of the entire Court in the following matters when unopposed, unless the Clerk determines that the Motion Justice(s) or Senior Staff Attorney should consider the matter:

1. Orders granting motions for a first, second or third extension of time for filing Reporter's Transcripts, Clerk's Record and Briefs (including briefs on Petitions for Rehearing), even when an objection is filed.
2. Prior to an appeal being assigned to a justice:
   a. Orders dismissing an appeal if requested by appellant or cross-appeal if requested by cross-appellant, or upon stipulation of the parties.
   b. Orders to augment the Reporter's Transcript or Clerk's Record or to augment briefs or file additional citations under I.A.R. 34(f)(1).
3. Orders granting motions to file handwritten briefs if the party is incarcerated as provided by I.AR. 36(c).
4. Orders granting motions to file briefs in excess of word counts set forth in Idaho Appellate Rule 34, but not exceeding: (a) initial briefs – 16,500 words; (b) reply briefs – 8,250 words.
5. Orders granting motions for association of non-resident counsel if in compliance with Bar Commission Rules.
6. Orders suspending an appeal for an appellate settlement conference; or granting motions or stipulations to suspend an appeal for up to 90 days due to pending settlement negotiations, if the case has not yet been set for oral argument; or suspending an appeal due to bankruptcy proceedings or suspending an appeal for the trial court's decision on a motion under I.C.R. 35 or for completion of post-conviction proceedings.
7. Orders granting motions or stipulations to correct case titles or headings.
8. Orders granting motions for remand for entry of judgment as required by I.R.C.P. 58(a) if none was entered.
9. Orders granting motions to waive filing fee in original proceedings, if incarcerated.
10. Orders conditionally dismissing appeals for nonpayment of filing fees or fees for preparation of any Reporter's Transcript or Clerk's Record unless a waiver of the fees is obtained from the district court. If a Notice of Conditional Dismissal has been issued without a response, the Clerk may order dismissal.
11. Orders conditionally dismissing an appeal for the reason appellant has failed to timely file a brief or a motion for extension of time to file a brief, Also, an order of final dismissal, if no response is filed to the conditional dismissal.
12. Orders placing appeal "at issue" and submitted for decision on the appellant's brief only unless respondent files a brief as provided in the order.
13. Subject to the Court's review, enter orders granting the parties' stipulation to waive oral argument and submit the case for decision on the briefs.
14. Orders granting a motion to withdraw any pending motion or petition when the motion to withdraw is filed by the party filing the initial motion or petition.
15. Orders granting unopposed motions to withdraw as counsel for any party in civil cases (except

in post-conviction relief cases where counsel is court-appointed), with the order requiring service on the client and giving the client or new counsel twenty-one days to file a notice of appearance.

16. Orders conditionally dismissing a Petition for Review or Petition for Rehearing when the petition is not physically filed in the Clerk's Office within twenty-one days from the issuance of the opinion, as well as the order of dismissal, if no response.

17. Orders deeming appeals submitted on the briefs in cases when the Appellant is appearing pro se and is incarcerated.

18. Orders assigning cases to the Court of Appeals or retaining them in the Supreme Court, including cases of summary disposition, after the Assignment Justice has signed the order of assignment (which is not distributed to the parties).

19. Orders assigning cases to the Court of Appeals in criminal appeals involving only challenges to the revocation of probation or the severity of the sentence as provided in I.A.R. 35(h). These matters are not reviewed by the Assignment Justice.

20. Orders approving reciprocal admission to the Bar of this Court when approved or recommended by the Board of Commissioners of the Idaho State Bar, subject to taking the Attorney's Oath and signing the Roll of Attorneys and any other requirements.

21. Enter orders granting motions to file an amended, supplemental or substitute brief or pages, as well as taking the necessary action to replace the pages in the briefs if necessary to correct errors.

22. Upon stipulation of the parties, enter orders granting motions to take judicial notice of the appeal record in a related case in this Court.

23. After review by Assignment Justice, enter Orders reinstating an appeal or Petition for Rehearing or Review after a conditional dismissal order has been issued based on untimeliness, if the response has attached a copy of the prison mail log showing the Notice of Appeal or Petition was timely given to prison mail authorities.

24. Order conditionally dismissing a Petition for Review or Rehearing for the reason the moving party has failed to timely file a supporting brief or a motion for extension of time to file a brief, as well as the order of dismissal, if no response is filed.

25. Order conditionally dismissing a Petition for Review or Rehearing for the reason the moving party has failed to timely file a supporting brief or a motion for extension of time to file a brief, as well as the order of dismissal, if no response is filed.

26. When a writ of habeas corpus has been found to be frivolous by a trial court judge and the individual appeals to the Supreme Court, the Clerk of the Court shall conditionally dismiss the appeal. The appellant will then be given 14 days to show that the notice of appeal is "well grounded in fact and is warranted by existing law." If the appellant files such a response, the matter will then be considered by the full Court.

SCHEDULE B

The Motion Justice(s) will be selected by the Chief Justice and serve at her or his pleasure. The Motion Justice(s) has authority and is authorized to enter the following orders on behalf of the entire Court without input from the other justices, subject to the sole discretion of the Motion Justice(s).

1. Orders granting motions or stipulations to consolidate cases.
2. Orders denying motions for stay of execution in death penalty cases when this Court has issued an opinion and remittitur affirming the death penalty and the stay motion is for the purpose of filing a Petition for a Writ of Certiorari in the United States Supreme Court.
3. Enter orders or take other definitive action on behalf of the entire court in the following matters, unless the Motion Justice(s) determines that the entire Court should be involved.
    a. Motions to withdraw filed by court appointed counsel.
    b. Motions to reconsider prior rulings.
    c. Habeas petitions from prisoners where no grounds regarding conditions of confinement are raised.
    d. Petitions from prisoners for writs of error or mandate where no grounds are asserted that would allow relief.
    e. Pro se petitions for special writs.
    f. Motions to remand.
    g. Motions to correct Reporter's Transcripts or Clerk's Record.
    h. Motions to file redacted copy of document in Clerk's Record.
    i. Motions/Requests to waive filing fees, Clerk's Record fees and/or Transcript fees.
    j. Stipulated motions to suspend appeals or motions to suspend appeals with no objection.
    k. Responses to orders of conditional dismissal based on timeliness or appealability of order.
    l. Motions for appointment of counsel.
    m. Request for Appointment of Hearing Committee in disciplinary proceedings.
    n. Recalling a remittitur alleged to have been wrongly issued.
    o. Motions for substitution of counsel.
    p. Briefs exceeding the following word counts: (a) initial briefs – 16,500 words; (b) reply briefs – 8,250 words
    q. Motions for leave to file a late petition for review.
    r. Motions to file a non-conforming brief if there is an objection.
    s. Motions for extension of time for filing a Reporter's Transcript or Clerk's Record, beyond a third extension.
    t. Motions for time for filing a transcript estimated to be over 500 pages.

u. Petitions for Review from decisions of the Court of Appeals where the Petitioner has requested that the Petition for Review be decided solely on the basis of the briefs previously submitted.

v. In Bar related matters, issue an order sealing case for confidential filings as provided by Bar Commission Rules.

w. Any matter on Schedule A requested by the Clerk of the Court.