

# **COURT OF COMMON PLEAS OF DELAWARE**

## **CRIMINAL TRIAL CONTINUANCE POLICY**

I. As Judges, we have an obligation to ensure prompt disposition of criminal cases in our courts. The rights of litigants must be carefully protected throughout the trial process by way of exercising sound judicial discretion when scheduling conflicts arise. Although such conflicts differ on a case-by-case basis, a statewide court policy is necessary to ensure that the litigation process operates smoothly without undue inconvenience to any party, to counsel, or to the judiciary.

II. The Supreme Court of Delaware Administrative Directive No. 82 (“Directive”) mandates that the trial judge maintain control over the progress of criminal trials in his or her court. As the Supreme Court states, it is important that trial judges refrain from allowing “local legal culture” to determine the speed of the litigation process. With the adoption of a general policy regarding continuance requests, trial judges may best be able to maintain the flexibility necessary to accommodate conflicts without necessarily sacrificing day-to-day conduct that may be unique to each county.

III. The purpose of developing a standard policy by which to address continuance requests is to provide an aid to the exercise of judicial discretion. The policy is not meant to dictate or inhibit the role of the judge in the litigation process. We must recognize that no policy could ever encompass every conceivable circumstance for which continuance may be granted or denied. As such, we must acknowledge that a general policy is the best way to efficiently and judiciously handle continuance requests, especially those based on a general explanation of “good cause shown”.

### **POLICY**

- A. A request for a continuance for a bench and/or jury trial may be granted for good cause and if it appears that the interest of justice will be better served. The request must be made in writing by the party requesting the continuance at least three (3) days before the trial or as soon as a conflict is evident.
- B. The continuance request shall be made on an approved form of the Court of Common Pleas (Exhibit “A” attached) and shall include the following information:
1. The number of times the trial was previously scheduled and reasons for the request(s);
  2. The number of times the party requesting the continuance has made said request(s).
  3. Whether there are any objections from the opposing side;
  4. Whether the defendant is incarcerated; and

5. If the request for a continuance is made due to a conflict in another Court, the requesting party shall supply the following:
- a) the caption and court of the conflicting case;
  - b) The reason(s) why the conflict cannot be resolved; and
  - c) Any other information which will be helpful to the Judge(s) in deciding which of the conflicting matters should take precedence.
- C. The written continuance request must be submitted directly to the Judge's Chambers after filing same with the Clerk of the Court. The moving party must also send a copy of the request to the opposing party or counsel.
- D. The Court, may for good cause, waive the three (3) day requirement if the party requesting the continuance sets forth exceptional or emergency situations in the continuance request.
- E. A continuance request made for an arraignment, case review, or any other proceeding not previously mentioned, must conform to the time requirements of the policy. A missed arraignment is not to be interpreted as a request for a continuance. A *capias* shall be issued if the arraignment is missed without a prior written request.

WE HEREBY ACCEPT THE CONTINUANCE POLICY UNDER THE TERMS  
AND CONDITIONS SET FORTH ABOVE.

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CHIEF JUDGE ALEX J. SMALLS

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JUDGE MERRILL C. TRADER

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JUDGE JAY PAUL JAMES

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JUDGE WILLIAM C. BRADLEY

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JUDGE ROSEMARY BEAUREGARD

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JUDGE JOHN K. WELCH

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JUDGE KENNETH S. CLARK, JR.

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE  
CONTINUANCE REQUEST**

**DATE:** \_\_\_\_\_

**REQUEST SUBMITTED BY:**

\_\_\_\_\_

**DATE EVENT SCHEDULED** \_\_\_\_\_

**CASE NOS:** \_\_\_\_\_

\_\_\_\_\_

**REASON FOR THE CONTINUANCE** \_\_\_\_\_

\_\_\_\_\_

**NUMBER OF TIMES PREVIOUSLY SCHEDULED** \_\_\_\_\_

**EVENT:**

\_\_\_\_\_ **JURY TRIAL**

\_\_\_\_\_ **NON-JURY TRIAL**

\_\_\_\_\_ **SENT/VOP**

\_\_\_\_\_ **CASE REVIEW**

\_\_\_\_\_ **ARRAIGNMENT**

\_\_\_\_\_ **PRELIMINARY HEARING**

**INTERPRETER NEEDED** \_\_\_\_\_

\_\_\_\_\_ **NO OBJECTION BY OPPOSING COUNSEL**

\_\_\_\_\_ **OBJECTION BY OPPOSING COUNSEL**

**TELEPHONE NUMBER FOR DEFENDANT** \_\_\_\_\_

**UNABLE TO CONTACT DEFENDANT BY TELEPHONE** \_\_\_\_\_

**APPROVED** \_\_\_\_\_  
**DATE**

**DENIED** \_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**JUDGE**