

CHAPTER 21

ORGANIZATION AND PROCEDURES OF APPELLATE COURTS

ORGANIZATION OF THE SUPREME COURT

Rule 21.1	Submission to the court
Rule 21.2	Absence of chief justice
Rules 21.3 to 21.10	Reserved

ORGANIZATION OF THE COURT OF APPEALS

Rule 21.11	Policy
Rule 21.12	Sitting en banc or in panels
Rule 21.13	Panel composition
Rules 21.14 to 21.20	Reserved

APPELLATE OPERATING PROCEDURES

Rule 21.21	Allocation of proceedings (cases)
Rule 21.22	Participation in and publication of opinions
Rule 21.23	Correction of opinions
Rule 21.24	Consideration of petitions for rehearing
Rule 21.25	Opinions dealing with confidential material
Rule 21.26	Memorandum opinions
Rule 21.27	Application to supreme court for further review
Rule 21.28	Posting opinions on the Internet
Rule 21.29	Controlling versions of opinions
Rule 21.30	Petitions, applications, requests, and motions

CHAPTER 21 ORGANIZATION AND PROCEDURES OF APPELLATE COURTS

ORGANIZATION OF THE SUPREME COURT

Rule 21.1 Submission to the court. Cases shall ordinarily be submitted en banc; however, the chief justice may provide for submission and consideration by less than the entire court.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.2 Absence of chief justice. If the chief justice is absent or ill or from any other disability is unable to act and does not select some other member of the supreme court to act as chief justice during an absence or disability, the court shall select one of its other members to act during such time.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rules 21.3 to 21.10 Reserved.

ORGANIZATION OF THE COURT OF APPEALS

Rule 21.11 Policy. The principal role of the court of appeals is to dispose justly of a high volume of cases.

[Court Order March 5, 2013, effective May 3, 2013]

Rule 21.12 Sitting en banc or in panels. The court of appeals may sit in panels. The chief judge of the court of appeals shall determine whether a case will be submitted with or without oral argument and whether it will be submitted to a panel of the court of appeals. A case first assigned to a panel may be submitted en banc upon the approval of the court.

[Court Order September 19, 1979; October 7, 1981; February 1, 1982; May 16, 1984; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.13 Panel composition. Composition of panels shall be changed periodically. A chief judge sitting on any panel shall be the presiding judge. When the chief judge is not a member of the panel, the active judge with the most seniority shall preside.

[Court Order February 1, 1982; May 16, 1984; July 19, 1999; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rules 21.14 to 21.20 Reserved.

APPELLATE OPERATING PROCEDURES

Rule 21.21 Allocation of proceedings (cases). Screening and evaluation of cases filed with the supreme court clerk shall be undertaken by the supreme court for purposes of routing to the appropriate appellate court. The supreme court shall make all routing decisions. Decisions concerning the necessity and scheduling of oral argument shall be made in the appropriate appellate court.

[Court Order September 19, 1979; May 27, 1988, effective July 1, 1988; November 9, 2001, effective February 15, 2002; February 27, 2008; March 5, 2013, effective May 3, 2013]

Rule 21.22 Participation in and publication of opinions.

21.22(1) Participation in opinions. Each opinion of the supreme court and court of appeals shall show the justices or judges who participated in the opinion.

21.22(2) Publication of supreme court opinions. All opinions of the supreme court, other than those issued per curiam, shall be published as provided in this rule. A list indicating the disposition of all opinions rendered by the supreme court per curiam or under Iowa R. App. P. 6.1203 shall be published quarterly in West's North Western Reporter, except for those opinions the supreme court specially orders to be published in the regular manner.

21.22(3) *Publication of court of appeals opinions.* The court of appeals, by majority vote of its members en banc, shall decide which of its opinions shall be published. Its decision to publish an opinion shall be reflected in an order filed with the clerk. An opinion may be published only after it is final. When further review is granted, the opinion of the court of appeals shall not be published unless the supreme court otherwise directs.

21.22(4) *Official reporter.* Opinions of the supreme court and opinions of the court of appeals to be published shall be published in West's North Western Reporter commencing with and subsequent to 158 N.W. 2d.

21.22(5) *Table of court of appeals opinions not otherwise published.* A table of the opinions of the court of appeals not approved for publication shall be published regularly in West's North Western Reporter. The table shall consist of the title, docket number, date of decision, and disposition of each case.

[Court Order September 19, 1979; December 20, 1989, effective February 15, 1990; February 19, 2001, effective July 1, 2001; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.23 Correction of opinions.

21.23(1) *Correction notice.* The author of an opinion or the appropriate appellate court may correct typographical, grammatical, or other formal errors in the opinion by filing a correction notice with the clerk of the supreme court. The correction notice shall be filed and kept with the opinion, and the author or appropriate appellate court shall cause a corrected opinion to be filed with the clerk. The corrected opinion shall reflect the original date of filing as well as the date of the filing of the corrected opinion. The original opinion shall remain on file with the clerk. If the opinion is to be published in the West's North Western Reporter and has not yet been published in a bound volume, and if the correction did not originate with the publishing company, the author or appropriate appellate court shall cause a copy of the correction notice to be transmitted immediately to the publishing company for insertion of the correction in the published opinion.

21.23(2) *Substantive changes to opinion.* Changes in the substance of a supreme court opinion may be made only by action of that court before procedendo has been issued. Changes in the substance of an opinion by the court of appeals may be made only before supreme court rules on any application for further review or, when no such application is filed, before issuance of procedendo. Such changes shall be made only by the filing of an order amending the opinion together with a substituted opinion. The substituted opinion shall reflect the original date of filing as well as the date of the filing of the substituted opinion. The original opinion shall remain on file with the clerk.

[Court Order December 5, 1979, effective January 1, 1980; May 16, 1984; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.24 Consideration of petitions for rehearing. All petitions for rehearing shall be considered by the justices and judges who participated in the original opinion.

[Court Order June 27, 1980; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.25 Opinions dealing with confidential material. In an appeal in a juvenile case in which the juvenile court record is confidential under Iowa Code section 232.147, the supreme court or court of appeals shall refer to the parties in the caption and body of the opinion and other public court documents by first name, initials, or pseudonym. The same method of designation shall be used in any situation in which revealing a person's identity would have the effect of disclosing material which is required by statute or rule of the supreme court to be confidential.

[Court Order November 19, 1981; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.26 Memorandum opinions.

21.26(1) *When appropriate.* Memorandum opinions may be used by the court of appeals and supreme court when any of the following occur:

- a. The issues involve only the application of well-settled rules of law to a recurring fact situation.
- b. The issue is whether the evidence is sufficient to support a jury verdict, a trial judge's finding of fact, or an administrative agency's finding, and the evidence is sufficient.

c. Disposition of the proceeding is clearly controlled by a prior published holding of the court deciding the case or of a higher court.

d. The record of the proceeding includes an opinion of the court or agency whose decision is being reviewed, the opinion identifies and considers all the issues presented, and the appellate court approves of the reasons and conclusions in the opinion.

e. A full opinion would not augment or clarify existing case law.

21.26(2) Contents. Memorandum opinions should contain all of the following information:

a. The name and number of the case.

b. The contentions of the Appellant or Appellants when appropriate.

c. The reasons for the result, briefly stated.

d. The disposition.

[Court Order September 19, 1979; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]

Rule 21.27 Application to supreme court for further review.

21.27(1) When deemed submitted. An application for further review shall be deemed submitted for consideration by the supreme court when the time for filing a resistance to the application has expired. In those cases in which a resistance is not allowed unless ordered by the court, and no resistance has been ordered, an application for further review shall be deemed submitted when the time for filing an application has expired.

21.27(2) Supreme court consideration. The supreme court en banc shall consider each application for further review and resistance. The affirmative vote of at least one-half of justices voting on the application shall be required to grant an application for further review. If an application is granted, the supreme court shall determine the scope and manner of submission.

21.27(3) Denial of further review shall have no precedential value.

[Court Order September 19, 1979; June 1, 2000, effective November 11, 2000; November 9, 2001, effective February 15, 2002; January 24, 2003; November 23, 2004; March 5, 2013, effective May 3, 2013]

Rule 21.28 Posting opinions on the Internet. The appropriate appellate court will make its opinions available on the judicial branch web page, www.iowacourts.gov, shortly after the court files the opinion in the clerk's office. If a court corrects an opinion under rule 21.23, the appropriate appellate court will make the corrected opinion available on the judicial branch web page shortly after the court files the corrected opinion in the clerk's office.

[Court Order March 5, 2013, effective May 3, 2013]

Rule 21.29 Controlling versions of opinions. The latest version of an opinion on file in the office of the clerk of the supreme court is the controlling version of the opinion. Opinions posted on the judicial branch web page may contain computer-generated errors or other deviations from the official opinion filed in the clerk's office. Moreover, a slip opinion is replaced within a few months by a paginated version of the opinion in the West's North Western Reporter preliminary print, and by the final version of the opinion in the reporter's bound volume. In case of discrepancies between the opinion posted on the judicial branch web page and the reporter's printed slip opinion, the latest opinion filed in the clerk's office is the controlling opinion. In case of discrepancies between the slip opinion and any later version in the reporter's bound volume, the latest version as filed in the clerk's office is the controlling opinion. In case of discrepancies between any online version of the opinion and the reporter's bound volume, the latest version of the opinion on file in the clerk's office is the controlling opinion.

[Court Order March 5, 2013, effective May 3, 2013]

Rule 21.30 Petitions, applications, requests, and motions.

21.30(1) Clerk's review of filings. The clerk of the supreme court or designee shall examine each petition, application, request, motion or similar document (called "motions" in this rule) filed to determine:

a. If the motion should be considered by a single judge, justice, or panel of the appropriate appellate court, or whether it may be ruled upon by the clerk or deputy pursuant to rule 6.1002(7);

b. If the motion should be ruled upon without awaiting a resistance pursuant to rule 6.1002(4); or

c. If the motion demands the immediate attention of the court pursuant to rule 6.1002(1)(a).

21.30(2) Consideration of motions.

a. Motions not requiring a resistance. Motions not requiring a resistance shall be promptly submitted to a judge, justice, panel, or the clerk or deputy for consideration.

b. Motions demanding immediate attention. Motions demanding the immediate attention of the court shall be immediately delivered to the appropriate appellate court.

c. Other motions. All other motions shall be submitted to a judge, justice, panel, or clerk or deputy for consideration after expiration of the deadline to file a resistance.

21.30(3) *Motions considered by more than one judge or justice.* Orders on motions considered by a panel of judges or justices shall be signed by one judge or justice, but shall include the names of the judges or justices who considered the motion. An order on a motion the entire court considered, however, may be signed by a single judge or justice with a notation that the motion was considered en banc.

21.30(4) *Assignment of motions.* Motions shall ordinarily be assigned to a judge, justice, or panel for consideration on a rotating basis.

[Court Order September 19, 1979; October 1, 1979; July 19, 1984; May 7, 1986, effective June 2, 1986; November 9, 2001, effective February 15, 2002; March 5, 2013, effective May 3, 2013]