2025 WI 51

SUPREME COURT OF WISCONSIN

No. 25-02

In the Matter of Amendments to Wisconsin Supreme Court Internal Operating Procedures

FILED

NOV 25, 2025

Samuel A. Christensen
Clerk of Supreme Court
Madison, WI

The Supreme Court, on its own motion on August 4, 2023, October 30, 2023, February 22, 2024, June 28, 2024, and September 16, 2025, adopted various amendments to its Internal Operating Procedures (IOPs). Pursuant to the amended IOPs, the amendments became effective immediately upon adoption and the amended IOPs adopted on September 16, 2025, were published on the court's website as soon as practicable after adoption. Therefore,

IT IS ORDERED that, effective September 16, 2025, the Wisconsin Supreme Court Internal Operating Procedures are amended, as set forth in the attached Appendix 1, which shows the additions and deletions adopted by the court on September 16, 2025.[1]

[1] Additions to the IOPs as they existed as of June 28, 2024, are designated in Appendix 1 by underlining the additional text. Deletions to the IOPs as they existed as of June 28, 2024, are designated in Appendix 1 by striking through the deleted text.

Dated at Madison, Wisconsin, this 25th day of November, 2025.

Samuel A. Christensen
Clerk of Supreme Court

Appendix 1

INTRODUCTION

These internal operating procedures, which were adopted May 24, 1984, and amended thereafter, describe the manner in which the Supreme Court currently processes, considers and decides judicial matters brought to the court. They also set forth the administrative and professional staff function in the conduct of the court's judicial business and the procedure by which the Supreme Court administers the non-judicial business of the court. These procedures are intended to structure the internal operations of the court, to advise counsel practicing before the Supreme Court and to inform the public. They are not rules of appellate procedure.

Following court reorganization in 1978, the court experimented with various procedures that seemed to best serve the objectives of collegiality and efficiency. The court continually reviews its procedures to improve the efficient processing of its caseload and the effective discharge of its administrative responsibilities. Accordingly, these procedures may be changed without notice as circumstances require.

It should be reemphasized that these are not rules. They do not purport to limit or describe in binding fashion the powers or duties of any Supreme Court personnel, or to vest any interest in any individual justice of the Wisconsin Supreme Court. These internal operating procedures are merely descriptive of how the court currently functions. Any internal operating procedure may be suspended or modified by a majority vote of the court. Any amendment of these internal operating procedures is effective immediately. See infra I.O.P. VI.

I. CHIEF JUSTICE

Pursuant to Article VII, Section 4 (2) of the Wisconsin Constitution, the chief justice of the Supreme Court is elected for a term of 2 years by a majority of the justices then serving on the court. Pursuant to Article VII, Section 4 (3) of the Wisconsin Constitution, the chief justice of the Supreme Court is the administrative head of the judicial system and shall exercise this administrative authority pursuant to procedures adopted by the Supreme Court. The chief justice is selected based on managerial, administrative and leadership abilities, without regard to seniority only.

The chief justice may delegate portions of the chief justice's duties to another justice in accordance with the supreme court rules and internal operating procedures. If the chief justice is unwilling or unable to perform the duties of the chief justice, the delegatee of the chief justice is to perform the duties of the chief justice. Under those circumstances, the term "chief justice" in the following Internal Operating Procedures is hereby defined as including the delegatee of the chief justice when the chief justice is not acting.

II. STAFF

A. Administrative

1. *Director of State Courts.* The director of state courts, who is appointed by and serves at the pleasure of the court, administers the nonjudicial business of the court system at the direction of the chief justice and the court. The authority and responsibilities of the director are set forth in the Supreme Court Rules, chapter 70.

2. *Clerk.* The clerk of the Supreme Court, who is appointed by the Supreme Court, performs the duties of the office prescribed by law and such other duties as may be prescribed by the court or the chief justice. The clerk is the custodian of all court records and is responsible for the supervision and processing of matters from the time of filing with the court until their ultimate disposition. The clerk is also clerk of the Court of Appeals, and the clerk's office serves both courts. The clerk is responsible for

implementing modes of filing in the Supreme Court and Court of Appeals, such as efiling, that are adopted by the Supreme Court.

3. *Chief Deputy Clerk.* The chief deputy clerk, who is hired by the clerk of the Supreme Court, assists the clerk in the performance of the duties of that office and performs those duties in the absence of the clerk.

4. *Marshal.* The marshal, who is hired by the director of state courts with the advice and approval of the Supreme Court, attends the public sittings of the court and performs the duties assigned by the court and the director of state courts.

5. *Deputy Marshal*. The deputy marshal, who is hired by the director of state courts with the advice and approval of the Supreme Court, assists in the performance of the duties of the marshal and, in the absence of the marshal, performs those duties.

B. Legal

1. *Supreme Court Commissioners*. Supreme Court commissioners are attorneys licensed to practice law in Wisconsin who are hired by and serve at the pleasure of the court. The commissioners perform research, prepare memoranda and make recommendations to the court regarding matters brought within the court's appellate and original jurisdictions and rule-making authority, and perform other duties as the court or the chief justice may direct. Matters are assigned to the commissioners on a rotating basis.

2. *Law Clerks.* Law clerks assist the justices in performing research. Law clerks are hired by and serve at the pleasure of the individual justice. Each law clerk performs research, prepares memoranda and performs other duties as the individual justice may direct.

III. DECISIONAL PROCESS - APPELLATE AND ORIGINAL JURISDICTION

The Wisconsin Constitution confers upon the Supreme Court appellate jurisdiction over all courts and jurisdiction to hear original actions and proceedings. As a corollary, the court has constitutional authority to issue all writs necessary in aid

of its jurisdiction.

The court's appellate jurisdiction is sought to be invoked by the filing of a petition for review of a decision of the Court of Appeals by a party to whom the decision was adverse, by the filing of a petition to bypass the Court of Appeals by a party to the circuit court action, or by certification by the Court of Appeals of a circuit court order or judgment appealed to the Court of Appeals. The Supreme Court may also, in its discretion, answer questions of law certified to it by the United States Supreme Court, a federal court of appeals, or the highest appellate court of any state. The Supreme Court exercises its appellate jurisdiction by granting a petition for review, a petition to bypass, or a certification or by deciding on its own motion to review directly a matter appealed to the Court of Appeals. The court's original and superintending jurisdictions are sought to be invoked by the filing of a petition. The court exercises its original or superintending jurisdiction by granting a petition therefor or by ordering the relief sought.

When a matter is brought to the Supreme Court for review, the court's principal criterion in granting or denying review is not whether the matter was correctly decided or justice done in the lower court, but whether the matter is one that should trigger the institutional responsibilities of the Supreme Court. The same determination governs the exercise of the court's original jurisdiction.

A. Court Schedule

Subject to modification as needed, in the spring of each year the court sets a schedule for its decisional process for each month from September through June. During each month the chief justice may schedule oral arguments, decision conferences, and administrative conferences on any date in the agreed-upon calendar. Any additional days added to previously agreed-upon court dates need unanimous approval.

B. Staff Analysis and Reporting

1. *Petition for Review.* Upon filing in the office of the clerk, petitions for review are assigned by clerk staff to the court's commissioners for analysis prior to the court's consideration of the matters presented. Within 50 days of assignment of the petition, the commissioner to whom a petition for review is assigned prepares and circulates to the court a memorandum containing a thorough legal and factual analysis of the petition, including the applicability of the criteria for the granting of a petition for review set forth in Wis. Stat. § (Rule) 809.62(1r), a recommendation to grant or deny the petition and, where appropriate, a recommendation for submission of the matter to the court for decision on briefs without oral argument.

In addition to the written memorandum, once each month and at other times as the court may direct, a conference is held at which each commissioner orally reports to the court on the petitions for review for which the court has requested further discussion. Two weeks prior to the conference at which the commissioners report, each commissioner circulates to the court the petitions for review, the responses to those petitions, and a memorandum on each petition, together with an agenda sheet listing by caption and docket number the cases assigned to that commissioner and the commissioner's recommendation in each case. Prior to the conference, each member of the court reads the materials circulated and each justice votes by email at least two full business days prior to the conference date, on all petitions, draft disciplinary decisions, and other matters.

Following discussion, the court decides whether to grant or deny the petition for review and, if the petition is granted, whether the case will be scheduled for oral argument or for submission on briefs and whether the court will limit or expand the issues in the case.

A petition for review is granted upon the affirmative vote of three or more members of the court. The purpose of requiring less than a majority of the court to grant a petition for review is to accommodate the general public policy that appellate

review is desirable. A request for a response from a party requires the vote of at least three justices, but it takes the vote of at least four justices to add an issue to those set forth in the petition for review.

The commissioner to whom the petition has been assigned prepares an order setting forth the court's decision on the petition for review and arranges for the issuance of the order by the office of the clerk. If the petition is granted, the order specifies the court's limitation or expansion of issues, if any, and the briefing schedule. The order provides that a party may file a brief or may stand on the brief filed in the Court of Appeals. A party shall not, in any new brief filed, incorporate by reference any portion of a Court of Appeals brief or a brief submitted with or in response to the petition for review.

1m. Wisconsin Stat. § (Rule) 809.105(11) Petition. Upon the filing in the office of the clerk under Wis. Stat. § (Rule) 809.105(11) of a petition for review of a judgment in an appeal of a decision of the circuit court on a petition to waive parental consent prior to a minor's abortion, the clerk shall notify the court that the petition has been filed. As soon as practicable after the petition is filed, the clerk shall furnish a copy of the petition to each justice and assign it, with a copy, to a commissioner.

The commissioner to whom such a petition for review has been assigned shall prepare and circulate to the court within three calendar days of the assignment a memorandum containing a thorough legal and factual analysis of the petition, including the applicability of the criteria for the granting of a petition for review set forth in Wis. Stat. § (Rule) 809.62(1r), a recommendation to grant or deny the petition and, where appropriate, a recommendation for submission of the matter to the court for decision with or without briefs and with or without oral argument.

Within five calendar days after the filing of such petition for review, the chief justice shall convene a conference of the members of the court, which may be held by telephone conference call, and the court shall issue an order granting or denying the

petition for review. An order granting the petition for review shall set forth a date and time for oral argument, if any, to be held in the court's hearing room, and a date and time for the filing of briefs, if the court orders briefs.

If such a petition for review is granted, the court shall issue its decision, with or without a written opinion, within ten calendar days after the petition for review is filed.

2. *Petition to Bypass, Certification and Direct Review*. A party may request the court to take jurisdiction of an appeal or other proceeding pending in the Court of Appeals by filing a petition to bypass pursuant to Wis. Stat. § (Rule) 809.60. A matter appropriate for bypass is usually one which meets one or more of the criteria for review, Wis. Stat. § (Rule) 809.62(1r), one which the court concludes it ultimately will choose to consider regardless of how the Court of Appeals might decide the issues, and one for which there is a need for an expeditious final resolution of the issues.

The Court of Appeals may request the Supreme Court to exercise its appellate jurisdiction by certifying a pending appeal to the Supreme Court prior to hearing and deciding the matter. Certifications are granted on the basis of the same criteria as petitions for review and where the court concludes that final resolution of the issues by this court is warranted without an intermediate level of appellate review.

Petitions to bypass and certifications are processed according to the procedures set forth above for petitions for review, except that these matters are generally given priority over petitions for review. Petitions to bypass and certifications are granted upon the affirmative vote of a majority of the participating members of the court.

Before the court on its own motion decides to review directly a matter appealed to the Court of Appeals, the court may assign the matter to a commissioner for analysis. If the matter is so assigned, it is processed according to the procedures set forth in this section for petitions to bypass and certifications. The court decides on its own motion to review directly an appeal pending in the court of appeals upon the affirmative vote of a majority of the participating members of the court.

""" If circumstances warrant, the court may by order set a different time for the response to a petition for bypass than is provided in Wis. Stat. § (Rule) 809.60(2). Once a majority of the participating members of the court vote to set a different time for the response to a petition for bypass, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to set a different time for the response and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within two business days of the majority vote to set a different time for the response. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

If a majority of the participating members of the court votes to grant or deny a petition for bypass or a certification or to assume jurisdiction over a matter pending in the court of appeals, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to grant, deny, or assume jurisdiction, and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within seven business days of the majority vote to grant, deny, or assume jurisdiction. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

3. *Original Action.* Upon filing, a petition requesting leave to commence an original action is assigned to a commissioner, who advises the court of the petition, if warranted, and makes a recommendation whether to deny the petition ex parte or to

order a response. If a majority of the participating members of the court vote to order a response, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to order a response and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within two business days of the majority vote to order a response. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

Whether or not a response is ordered, the chief justice determines a date on which the matter will be considered by the court at conference. The commissioner reports on the matter at that conference. If time permits, the commissioner circulates a memorandum to the court prior to that conference analyzing the legal and factual issues involved and making a recommendation as to the disposition of the petition. The commissioner also may recommend scheduling oral argument on the question of the court's exercise of its original jurisdiction, if the commissioner concludes that oral argument is necessary.

A petition to commence an original action is granted upon the vote of a majority of the participating members of the court. The criteria for the granting of a petition to commence an original action are set forth in case law. See, e.g., Petition of Heil, 230 Wis. 428 (1939). The Supreme Court is not a fact-finding tribunal, and although it may refer issues of fact to a circuit court or referee for determination, it generally will not exercise its original jurisdiction in matters involving contested issues of fact. Upon granting a petition to commence an original action, the court may require the parties to file pleadings and stipulations of fact. The court customarily holds oral argument on the merits of the action and expedites the matter to decide it promptly.

If a majority of the participating members of the court vote to grant or deny a petition for leave to commence an original action, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to grant or deny the petition and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within seven business days of the majority vote to grant or deny the petition. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join"". The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

4. *Petition for Supervisory Writ; Petition for Writ of Mandamus, Prohibition, Quo Warranto, Habeas Corpus.* The Supreme Court has superintending authority over all actions and proceedings in the circuit courts and the Court of Appeals. It does not ordinarily issue supervisory writs concerning matters pending in circuit courts, as the Court of Appeals also has supervisory authority over all actions and proceedings in those courts. A person may request the Supreme Court to exercise its superintending jurisdiction by filing a petition pursuant to Wis. Stat. § (Rule) 809.71.

Petitions for supervisory writ and petitions for writ of mandamus, prohibition, quo warranto, or habeas corpus are processed according to the procedure set forth above for a petition for commencement of an original action.

If circumstances warrant, the court may order a response to a petition for supervisory writ or a petition for a writ of mandamus, prohibition, quo warranto, or habeas corpus. If a majority of the participating members of the court vote to order a response to a petition, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to order a response and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within two business

days of the majority vote to order a response. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

If a majority of the participating members of the court vote to grant or deny a petition for a writ, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to grant or deny the petition and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within seven business days of the majority vote to grant or deny the petition. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

""4m. *Mail-in conference procedures*. Regarding petitions for review, certifications, petitions to bypass, original actions, petitions for supervisory writ, and petitions for writ of mandamus, prohibition, quo warranto, and habeas corpus, some months are scheduled as mail-in conferences, whereby each justice votes, by email, on the recommendations of each commissioner. When the initial email vote on petitions for review, and drafts of disciplinary decisions and other matters are due on an identified date, but the court will not be meeting on that date, all email votes are due on the identified date.

Any justice may hold for discussion any matter on the agenda for a mail-in conference. In the event one or more matters is held, the chief justice shall 'place the matter(s) on the agenda for the next available court conference or in-person

petitions conference.

5. *Regulatory Jurisdiction.* A matter within the regulatory jurisdiction of the court, *e.g.*, bar admission, continuing legal education, lawyer discipline, judicial discipline, Supreme Court Rules and rules of pleading, practice and procedure in civil and criminal actions, is assigned to a commissioner for analysis and reporting to the court. The commissioner shall indicate whether a matter requires a public hearing. The commissioner prepares orders in these matters as the court may direct and arranges for their issuance by the office of the clerk.

6. *Motions.* When acting on motions, the chief justice acts on behalf of the court and pursuant to rules of the Supreme Court.

a. Unopposed procedural motions are acted on by the commissioners. Procedural motions which do not adversely affect another party, *e.g.*, motions to extend time to file briefs or to exceed page limitations of briefs, are acted on by the commissioners without a response from the adverse party, unless the commissioners request a response. The commissioners prepare and issue an appropriate order.

When appropriate, the commissioner presents a motion to the chief justice or the court with a recommendation to grant or deny the motion. The commissioner prepares an appropriate order and, when the order is approved, arranges for its issuance.

b. Substantive motions are assigned by clerk staff to the court's commissioners for review and reporting to the court, with or without a memorandum, as time may permit and circumstances may indicate. If a motion is filed in a case that has been assigned to a justice, clerk staff transmits the motion to the court. When the motion has been decided, the commissioner or clerk staff, at the court's direction, prepares an appropriate order and, when the order is approved, arranges for its issuance by the office of the clerk. """

Once a majority of the participating members of the court vote to grant or deny

a substantive motion, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to grant or deny the motion and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within seven business days of the majority vote to set a different time for the response. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

c. A motion to file a brief by a person not a party to a proceeding is assigned to the commissioner to whom the matter has been assigned for analysis, who may grant the motion if it appears that the movant has a special knowledge or experience in the matter at issue in the proceedings so as to render a brief from the movant of significant value to the court. If the commissioner questions the propriety of granting the motion or if it appears that the motion should be denied, the commissioner reports the matter to the court with a recommendation that it be denied. The decision to deny a motion to file a nonparty brief is the court's. The commissioner prepares an appropriate order and arranges for its issuance by the office of the clerk.

Once a majority of the participating members of the court 'vote to grant or deny a motion to file a nonparty brief, by 4:00 p.m. on the next business day, all remaining justices must vote on whether grant or deny the motion and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within two business days of the majority vote to grant or deny the motion. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join"". The order shall

be issued as soon as practicable after the expiration of all time periods referenced above.

d. Motions for temporary relief concerning matters pending in the Supreme Court are assigned to the court or to the commissioner to whom the underlying matter has been assigned and with whom it remains at the time of the filing of the motion. The matter is reported to the court with or without a memorandum, as time and circumstances may indicate.

If a majority of the participating members of the court vote to grant or deny a motion for temporary relief, by 4:00 p.m. on the next business day, all remaining justices must vote on whether grant or deny the motion and whether they will be preparing a separate writing. Any initial separate writing shall be circulated within seven business days of the majority vote to grant or deny the motion. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

7. *Other Orders*. If a majority of the participating members of the court vote to issue any other order related to a pending case, by 4:00 p.m. on the next business day, all remaining justices must vote on whether to issue the order and declare whether they will be preparing a separate writing. Any initial separate writing shall be circulated within seven business days of the majority vote to issue the order. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within one business day. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time """periods referenced above.

8. *Separate Opinion(s) To Follow*. If the author of a declared separate writing fails to circulate a separate writing or fails to circulate timely revisions to a separate writing within the deadlines specified in subpar. 2, 3, 4, 6, or 7, the order may be released with the designation "separate opinion(s) to follow" upon a majority vote of the participating justices.

C. Submission Calendar

The clerk of the court, in consultation with the chief justice, prepares and distributes to the court for each month from September through June, inclusive, a list of cases for submission to the court that month. The clerk assigns cases to the submission calendar in the order of the anticipated filing of the last brief, except that criminal cases and cases involving child custody and termination of parental rights are given priority to the extent possible. The chief justice sets the cases to be assigned each month based on the court's calendar.

The submission calendar sets the date of oral argument for cases assigned for submission with oral argument and lists cases assigned for submission on briefs. The date of submission of the oral argument cases is the date of oral argument, and the date of submission of cases assigned for submission on briefs is the date set by the chief justice. Generally, cases are assigned for submission with oral argument unless it appears from the issues or the briefs that oral argument would not be sufficiently informative to the court to justify the additional expenditure of court time or cost to the parties or there is another case or cases assigned for submission with oral argument presenting the same issue(s). At least 30 days prior to the first day of oral argument on the submission calendar, the clerk makes the submission calendar public and distributes a copy of it to the court, to the parties to the cases, and to others who have arranged with the clerk to receive it.

"" **D. Oral Argument**

After the submission calendar is circulated, each justice is randomly assigned

cases on it for purposes of leading the discussion of those cases at post-argument conference on the day of oral argument.

The submission calendar lists those cases to be argued in the morning, typically beginning at 9:45 a.m., and those cases to be argued in the afternoon, typically beginning at 1:30 p.m. Attorneys are to be present and prepared to argue at the time indicated, which is the earliest time at which their case may be called.

At oral argument, each side is allowed 30 minutes or such other period of time as the court may grant to present argument supplementing or clarifying arguments set forth in the briefs, to present argument on issues specified by the court prior to oral argument and to discuss developments in applicable law that have occurred subsequent to the filing of the briefs. Requests for additional time for oral argument are to be made in writing to the clerk, but such requests are rarely granted. "Oral arguments are posted to the court's website.

'1. *Opening Argument.* Twenty-five minutes are allotted for opening argument, leaving five minutes for rebuttal. The court generally will not question counsel during the first two minutes of opening argument. The division of oral argument time in cases with a cross-appeal is to be agreed to by the parties; no more than five minutes may be reserved for rebuttal. A party may cede part of its time to an amicus.

2. *Respondent's Argument.* The same procedure outlined above for opening argument is used for respondent's thirty-minute argument. The court generally will not question counsel during the first two minutes of respondent's argument.

3. *Rebuttal.* Five minutes are allotted for rebuttal.

4. *Additional Questioning*. At the end of each principal argument, the chief justice shall afford justices the opportunity to ask additional questions.

E. Post-argument Decision Conference

Following each day's oral arguments, the court typically meets in conference to discuss the cases argued that day. The chief justice presides at the conference,

facilitates the court's discussion, and calls for the vote on the decision of each case.

For each case, the justice to whom the case was assigned for presentation at the post-argument conference, the reporting justice, gives his or her analysis and recommendation first, the court discusses the issues in the case, and the vote of each member of the court on the decision is taken, beginning with the reporting justice. When possible, the court reaches a decision, including the legal rationale on which the decision is to rest, in each of the cases argued that day, but any decision is tentative until the decision is mandated.

F. Assignment of Cases

Immediately after the court reaches its tentative decision in a case, whether at post-argument decision conference or at a succeeding conference, the case is assigned to a member of the court who is in the majority, on both the disposition and its legal rationale, to prepare the court's opinion. No case is assigned to a justice until after oral argument and after the court has reached its tentative decision.

Cases are assigned by lot: each justice is assigned a number from one to seven according to seniority, and the next senior justice, aside from the chief justice, draws one of seven numbered tokens. The number drawn for each case determines the justice to whom the writing of the opinion is assigned. Where possible, a case is assigned only to a justice who has voted with the majority and agrees with a majority on the legal rationale for the decision. In the event a justice to whom a case has been assigned subsequently decides to change his or her vote on the decision or the legal rationale of the case and ceases to be among the majority, he or she may withdraw from the assignment; the case is then reassigned by lot to a justice who is among the majority, and another case may be assigned to the justice who has withdrawn.

The court attempts to assign an equal number of opinions to each justice during the term. Accordingly, where possible, a justice who votes with the majority is eligible to be assigned to write the opinion when that justice has been assigned fewer opinions

than other justices in the majority unless each justice in the majority has been assigned the same number of opinions.

After the cases are assigned, the justice prepares a draft opinion for circulation to the court.

G. Opinion

1. *First Circulation Dates for Majority Opinions.* Majority opinions assigned in September shall be circulated no later than December 10. Majority opinions assigned in October shall be circulated no later than January 10. Majority opinions assigned in November shall be circulated no later than January 31. Majority opinions assigned in December shall be circulated no later than the last business day in February. Majority opinions assigned in January shall be circulated no later than March 31. Majority opinions assigned in February shall be circulated no later than April 30. Majority opinions assigned in March or April shall be circulated no later than May 31. Majority opinions assigned in May and separate opinions responding to opinions circulated in May shall be subject to a shortened timeline that will be circulated when it can be determined what deadlines are needed. In the event any of these deadlines falls on a weekend or state holiday, the deadline shall be extended to the next business day.

2. *Majority Opinion Declarations.*

(a) *Initial Declarations.* Within 5 business days after the first circulation of a majority opinion, each participating justice shall declare by email to all justices participating in the case in one of three ways: (1) joins the opinion; (2) joins the opinion if specifically described changes are made; (3) does not join the opinion and may or will write separately.

(b) *Second Circulation of Majority Opinion.* Within 15 business days of receiving all initial declarations, the author of the majority opinion shall revise and recirculate the majority opinion, incorporating some or all of the changes specifically

requested upon the initial circulation of the majority opinion, or issue a statement that no changes will be made. A justice who asked for changes in the majority opinion that were not made and any other justice who does not join the majority opinion shall declare by email within five business days of circulation of the second circulation of the majority opinion that he or she joins the majority opinion or may be joining another justice's separate writing or will be writing separately.

3. *Separate Writings.* Whether concurring or dissenting, a justice who declares a separate writing in response to the first circulation of a majority opinion has 40 days from the 'date of the first circulation of the majority opinion to circulate his or her separate writing. A justice who declares a separate writing in response to a second circulation of the majority opinion shall circulate his or her separate writing within 21 days of the second circulation of the majority opinion or the statement that the majority opinion will not be revised further. In the event either of these deadlines falls on a weekend or state holiday, the deadline shall be extended to the next business day.

If upon circulation of separate writings, a justice who had not intended to write separately but had anticipated joining the writing of another justice decides to write, that justice shall discuss with the author of the majority opinion the date on which to circulate the separate writing. The author of the majority opinion shall advise the court of the date chosen for circulation of that separate writing.

4. *Revisions to Majority Opinions/Separate Writings; Procedure for Mandating Opinions.* Upon circulation of a separate opinion, the author of the majority opinion has 10 business days in which to revise, and upon receipt of those revisions, dissents and concurrences have 10 business days to respond to the majority's revision. Any further revisions/circulations of the majority opinion and or separate writings shall occur within four business days of the writing to which the revision is responding.

The revision of dissents and concurrences shall not create new opinions, but shall respond only to revisions in the majority opinion.

Unless a justice decides to join a different opinion than previously declared, declarations upon recirculations of the majority opinion or recirculations of separate writings are not necessary until revisions of the majority opinion and separate writings are complete, at which time, each justice shall, within three business days by email to all justices participating in the case, make a final declaration of which opinion he or she is joining.

If during this process the opinion originally circulated as the majority opinion does not garner the vote of a majority of the court, it shall be referred to in separate writings as the "lead opinion" unless a separate writing garners the vote of a majority of the court on all issues sufficient to resolve the case fully. If a separate writing garners the vote of a majority of the court on all issues sufficient to resolve the case fully, it shall be revised as the majority opinion within 14 days of the vote of the court or the next business day, if that date would otherwise fall on a weekend or state holiday. Within five business days of the circulation of this majority opinion, the opinion initially circulated as the majority opinion and other separate writings shall be revised and indicate their status as concurrences or dissents to the new majority opinion.

Upon receipt of the final declarations of all participating justices, the majority author shall send an email summarizing the final declarations of all participating justices and that the opinion is approved for mandate. If the deadline for separate writings has passed and no separate writings have been circulated, the majority opinion author shall send an email to the participating justices indicating that no separate writings have been received and shall mandate the opinion.

Within three business days of the mandate, the majority opinion and all separate writings shall be placed in the release drive for transmittal to the clerk's office for release to the public, unless release of separate writings is delayed as required by step 5 below.

5. *Separate Writings to Follow.* If, during the course of a separate writing, the

author cites to a case then pending before the court for which the opinion of the court has not been released, the majority opinion shall be released with the designation "separate opinion(s) to follow," unless the citation can be replaced with ellipses in which case the separate opinion shall be released with the majority opinion and the ellipses shall be replaced with the omitted citation when the cited opinion is released. There shall be no further changes to the separate writings after mandate. Separate writings for which the citation cannot be replaced with ellipses shall be released when the then unreleased decision that was cited in the separate opinion is released.

If the author of a declared separate writing fails to circulate a separate writing within the deadlines specified in subpar. 3, or fails to circulate timely revisions to a separate writing within the deadlines specified in subpar. 4, the majority opinion may be released with the designation "separate opinion(s) to follow" upon a majority vote of the participating justices.

6. *Holds; Tying Together Release of Two Pending Cases.* No one justice may block the release of a majority opinion by a "Hold." It shall take the affirmative vote of the majority of the participating justices to block the release of a majority opinion. No one justice may tie together the release of two pending cases. It shall take the affirmative vote of a majority of the participating justices in each case to tie together the release of two pending cases.

7. *Court Conferences on Circulated Opinions.* Any justice may request a court conference on any circulated opinion. In the event such a request is made, the chief justice shall place the opinion(s) on the agenda for discussion at conference.

H. Per Curiam Opinion

Per curiam opinions may be prepared by a justice or a commissioner for consideration by the court. Per curiam opinions in judicial and attorney disciplinary proceedings are prepared by a commissioner for the court's consideration. The decisions in all cases are made by the court, and per curiam opinions are reviewed by

the entire court and are approved as to form and substance by the court prior to issuance.

I. Mandate

The court's decision in a case is mandated promptly upon approval of the opinion by the court, as set forth above, and upon notification by the chief justice to the clerk. The court's opinion is issued simultaneously with any concurring or dissenting opinions, unless concurring or dissenting opinions come within paragraph 5 above as "Separate Writing to Follow."

When a decision is ready to be mandated, the court's opinion, along with any concurring or dissenting opinions, is transmitted to the clerk's office where it is reviewed and assigned a public domain citation. The case name and number of opinions that are scheduled for release are ordinarily posted on the court's website two days prior to the scheduled release date. On the day of mandate, the "opinion is posted to the court's website. The opinion remains subject to further editing and modification. The office of the clerk arranges for the publication of the final version of the opinion in official publications.

J. Reconsideration

The court does not reconsider its decision on petitions for review or petitions to bypass. Motions under Wis. Stat. § 809.64 for reconsideration of the judgment or opinion of the court are assigned in rotation by the office of the clerk to a member of the court who participated in but did not author the court's opinion or write a dissent in the case. The justice reports on the motion and makes a recommendation. Every motion for reconsideration under Wis. Stat. § 809.64 is decided by the court.

Reconsideration, in the sense of a rehearing of the case, is seldom granted. A change of decision on reconsideration will ensue only when the court has overlooked controlling legal precedent or important policy considerations or has overlooked or misconstrued a controlling or significant fact appearing in the record. A motion for

reconsideration may result in the court's issuing a corrective or explanatory memorandum to its opinion without changing the original mandate.

The justice to whom a motion for reconsideration is assigned informs the office of the clerk of the court's decision on reconsideration, and the clerk issues an appropriate order. If reconsideration is granted and further briefing required, the case is placed with other pending cases and processed accordingly.

K. Remittitur

The clerk transmits to the Court of Appeals or to the circuit court, as appropriate, the mandate and opinion of the court together with the record in the case as follows: 31 days after the filing of the opinion of the court when no motion for reconsideration is filed; upon completion of reconsideration when reconsideration is granted; promptly upon the court's decision denying a motion for reconsideration.

L. Miscellaneous

1. *Recusal or Disqualification of Justices.* A justice may recuse himself or herself under any circumstances sufficient to require such action. The grounds for disqualification of a justice are set forth in Wis. Stat. § 757.19. The decision of a justice to recuse or disqualify himself or herself is that of the justice alone. When a justice recuses or disqualifies himself or herself, the justice takes no further part in the court's consideration of the matter. A justice who recuses himself or herself may choose to file with the court or as part of a published opinion the statement that: (a) the justice did not participate; or (b) the justice withdrew from participation. The court's orders and the opinion in the matter bear the notation that the justice did not participate or withdrew from consideration of the case.

2. *Indigency.* If a person seeking to proceed in the Supreme Court claims to be indigent, that claim generally will be accepted if an indigency determination as to that person previously has been made in the Supreme Court or in the Court of Appeals. If more than one year has elapsed since the indigency determination or if the subsequent

case is of a substantially different type than the one in which the indigency determination was originally made, the clerk may request the person to submit a new affidavit of indigency form. If no indigency determination has been made previously, the clerk sends the person an affidavit of indigency to be completed and returned. The affidavit is accompanied by a form order requiring completion and filing of the affidavit within 10 days of the date of the order or, failing which, ordering the dismissal of the proceedings.

The clerk makes indigency determinations. If the person is determined to be indigent, the clerk issues an order waiving payment of the filing fee in the proceeding. If the affidavit of indigency is incomplete or is not credible, the clerk issues an order stating that the affidavit is incomplete or the reasons for which the affidavit is deemed not credible, stating that the affidavit is not approved and requiring the person either to pay the appropriate filing fee or submit a credible and completed affidavit within five days of the date of the order, failing which the proceedings will be dismissed.

If the clerk determines on the basis of a complete and credible affidavit that a person is not indigent, the clerk issues an order directing the person to pay the appropriate filing fee in the proceedings. If the person does not respond to a court order concerning indigency, the clerk assigns the matter to a commissioner for review; the commissioner reports to the court with recommendations.

3. *Statistics.* The clerk prepares a monthly statistical report setting forth the status of matters pending with the court and a cumulative accounting of matters disposed by the court from the preceding September. The clerk distributes a copy of these statistical reports to the court and to the director of state courts.

4. *Voluntary Dismissal.* If a notice of voluntary dismissal of a proceeding on a petition for review, petition for bypass or certification or of an original action or supervisory writ proceeding is filed before all of the briefs in the proceeding are filed, the chief justice may act on the notice; if a notice of voluntary dismissal is filed after

all of the briefs in the proceeding are filed, the chief justice shall bring the notice to the court for action.

IV. RULE-MAKING PROCESS

A. Public Hearing

The court notices and holds a public hearing on petitions for the creation or amendment of rules governing pleading, practice and procedure in judicial proceedings in all courts, provided that the court deems the petition to have arguable merit. In the event the court deems a petition meritless, it may, without holding a public hearing, summarily dismiss the petition or decline to take any action. See Wis. Stat. § 751.12. The court also holds a public hearing on petitions for amendment of the Supreme Court Rules except, in the court's discretion, when the petition concerns ministerial or otherwise non-substantive matters or when exigent circumstances exist or when necessary to bring the Supreme Court Rules and Internal Operating Procedures into conformance. Upon a vote of a majority of the court, a public hearing shall be held to review a rule amended pursuant to an exception.

B. Open Conference

Subject to par. 7, after a public hearing is held the court meets in open conference in the Supreme Court Hearing Room to discuss the merits of and act on the petition. The court also holds open conference on other administrative matters. The following provisions apply to open conference.

1. *Notice.* The court gives notice prior to the conference as promptly and as widely circulated as feasible. Written notice of the open administrative conference generally is provided along with notice of the public hearing pursuant to Wis. Stat. § 751.12(3).

2. *Procedure.* Members of the court convene at the attorneys table in the Supreme Court Hearing Room and the chief justice presides.

3. *Public Attendance.* The public is invited to observe the conference from the

area designated for public seating and may not participate in it.

4. *Media Coverage.* The rules governing electronic media and still photography coverage of judicial proceedings, SCR chapter 61, apply to open conferences.

5. *Staff.* All matters within the court's rule-making jurisdiction are assigned to a commissioner for analysis and reporting to the court. See IOP. IV.B.5. The commissioner prepares and circulates material to the court for its assistance at the conference, participates in the conference at the court's discretion, and drafts rules and prepares orders at the court's direction.

6. *Adjournment.* If the court does not complete discussion of the petition at the conference, it adjourns to a specified date or a date to be determined. Notice of an adjourned open administrative conference is provided pursuant to par. 1 once the adjourned date is scheduled.

7. *Exceptions.*

(a) An open conference is not held when it appears that only non-substantive aspects of the petition will be discussed.

(b) Upon vote of the majority in open court, the court may discuss and act on the petition in conference closed to the public.

(c) Upon motion of a member of the court at open conference to discuss matters pertaining to personnel, the conference is adjourned to closed session and reconvenes in open session upon the vote of the majority.

8. *Orders.* At open conference, the court votes on whether or not to adopt or deny the petition in whole, in part, or as modified, and the date upon which any adopted petition shall become effective. The commissioner assigned to the matter is responsible for drafting and circulating the final order consistent with the court's decision at open conference.

9. *Separate Writings.* If the court decides to grant a petition, in whole or in part, to modify the rule proposed by the petition, or to deny a petition, and the draft order to

that effect is circulated after the court's decision, any initial separate writing to the order shall be circulated within 30 days of the approval of a draft order by a majority of the court. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within five business days. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above.

If the author of a declared separate writing fails to circulate a separate writing or fails to circulate timely revisions to a separate writing within the deadlines specified in this subparagraph, the order may be released with the designation "separate opinion(s) to follow" upon a majority vote of the participating justices.

C. Private Discussion

Members of the court are not precluded from discussing privately the subject of a pending rule petition among themselves or with others. The commissioners may discuss the substance of a pending rule petition with the petitioner or other interested persons.

V. APPOINTMENT PROCESS

The Wisconsin Supreme Court, pursuant to statutory authority and the court's rules, regularly appoints lawyers and non-lawyer members of the public to various boards, committees, and other entities. In making those appointments, the court's objective is to maximize the participation of lawyers and the public in the work of those entities. The court has created the Appointment Selection Committee (ASC) independent of the court to assist in the process. The ASC solicits and evaluates persons for appointment and nominates for the court's consideration the persons it determines are best qualified to serve. In evaluating the qualifications of persons

interested in appointment, the ASC applies the criteria established by the court for each of the entities to which appointment is made.

In making appointments, the court's objective is to provide quality and promote diversity on the boards, committees and other entities. The appointment procedure established by the court is designed to produce appointments based solely on the qualities of integrity, intelligence, experience and commitment.

A. Appointment Selection Committee

The ASC consists of the following 12 persons:

One attorney from the Milwaukee metropolitan area selected by the dean of the Marquette University Law School.

One attorney from outside the Milwaukee metropolitan area selected by the dean of the University of Wisconsin Law School.

The president of a county bar association located within the Eastern District of Wisconsin chosen by the court by lot, or his or her designee.

The president of a county bar association located within the Western District of Wisconsin chosen by the court by lot, or his or her designee.

The chair of the Family Law Section of the State Bar of Wisconsin, or his or her designee.

The chair of the General Practice Section of the State Bar of Wisconsin, or his or her designee.

The president of the Government Lawyers Division of the State Bar of Wisconsin, or his or her designee.

One former member of the Board of Attorneys Professional Responsibility or the Board of Bar Examiners who has not served within the preceding five years, chosen by the court by lot.

The chair of one of the district professional responsibility committees provided in SCR 21.08, chosen by the court by lot.

One non-lawyer member of the public designated by the Senate Co-Chair of the Legislative Council.

One non-lawyer member of the public designated by the Assembly Co-Chair of the Legislative Council.

One non-lawyer member of the public designated by the chair of the State Ethics Board.

To be eligible to serve on the ASC, a lawyer must have practiced law for more than five years.

The term of a member is three years.

Vacancies on the ASC are filled by the persons identified above, respectively. When the person is specified to be chosen by lot, a person is chosen by lot each time there is a vacancy in that position.

The ASC selects its chair at the first meeting of each calendar year. Staff support is provided to the ASC.

B. Meetings

The ASC meets at such times as considered necessary by its chair. The meetings are held at locations and times so as to enable the greatest number of members to participate.

C. Nomination Procedure

1. Notice of Vacancy. Each board, committee and other entity to which the Supreme Court makes appointment of lawyers and non-lawyer members of the public notifies the clerk of the court as soon as practicable of appointments that need to be made. The clerk of the court notifies the ASC chair of those appointments.

2. *Information to and Solicitation of Interested Persons.* In addition to the information disseminated by the court regarding the appointment of lawyers and non-lawyer members of the public, the ASC publicizes the appointments to be made by such means as, in the ASC's discretion, will provide notice to the greatest number of persons likely to be interested in being appointed. To the extent it deems necessary, the ASC may conduct in-person information and solicitation sessions to produce qualified persons interested in being appointed.

3. *Resumes; Interviews.* The ASC invites persons interested in being appointed to submit a written resume of their qualifications. The ASC may personally interview those persons whose resumes demonstrate qualifications that appear to warrant a personal, confidential interview before the full ASC or any number of its members the ASC may designate.

4. *Nomination.* Not less than 30 days prior to the expiration of a term or other applicable date that requires an appointment by the Supreme Court, the ASC submits to the Supreme Court the names of persons it nominates for appointment. Each attorney nominated shall be vetted by OLR, and each public member nominated shall be vetted through relevant sources. If more than one position on a particular board, committee or other entity is to be filled by appointment at the same time, the ASC, in its discretion, may submit the number of names it considers appropriate for appointment to the positions generally or in respect to each position separately. Together with the nominations, the ASC submits to the court all of the resumes and other material it has collected to consider regarding nominations. The court also may ask the ASC to submit additional nominations.

5. *Reappointment*. When a member of a board, committee or other entity is eligible for reappointment to a successive term, the ASC ascertains whether the member regularly attended meetings of the board, committee or other entity, made significant contribution to its work, and is willing to accept reappointment. If the

member's participation has been satisfactory and the member is willing to accept reappointment, and the ASC nominates the member for reappointment to a successive term, it is unnecessary for the ASC to nominate other persons for appointment to the position. If the member's participation has been unsatisfactory or the member is not willing to accept reappointment, the ASC proceeds as in the case of an appointment.

6. *Criteria.* In determining the qualifications of persons for appointment, the ASC applies the criteria for the specific position established by the court from time to time and provided to the ASC in writing. The ASC may, with the approval of the court, apply additional specific criteria.

D. Reimbursement

Members of the ASC are reimbursed for travel, lodging and related expenses reasonably incurred in carrying out their duties.

VI. COURT OF APPEALS CHIEF JUDGE TERM LIMIT

The chief judge of the court of appeals, appointed under Wis. Stat. § 752.07, is subject to removal by the supreme court and may not serve more than two consecutive terms. In exceptional circumstances the supreme court, in its discretion, may extend the chief judge's service beyond the two-term limit.

VII. AMENDMENTS

These internal operating procedures may be amended at any time by a majority vote of the court. Any such amendment is effective immediately unless there is an affirmative vote of a majority of the court otherwise. The amended procedure shall be published on the court's website as soon as practicable (with a notation of the effective date), regardless of whether a justice plans to concur or dissent to the amendment. An order is not necessary but in the event one or more justices wish to concur or dissent to any amendment to these internal operating procedures, a commissioner shall prepare and circulate an order memorializing the

amendment adopted by the court. Any separate writing to such an order shall be circulated within 30 days of the circulation of the draft order. In the event this deadline falls on a weekend or state holiday, the deadline shall be extended to the next business day. If one or more initial separate writings are circulated, any separate writing in response shall be circulated within seven business days. Justices other than the author of an initial or additional separate writing shall have until 4:00 p.m. on the next business day following the circulation of that writing to state whether they join. The order shall be issued as soon as practicable after the expiration of all time periods referenced above. If a justice is unable to prepare his or her separate writing by the time the order is issued, or to circulate timely revisions to a separate writing within the deadlines specified in this section, the order may be released with the designation "separate opinion(s) to follow" 'upon a majority vote of a quorum of the court.

Amended July 1, 1991; February 18, 1992; June 24, 1992; June 1, 1995; September 16, 1996; June 22, 1998; March 16, 2000; April 2006; May 4, 2012; April 16, 2015; November 2015; December 20, 2016; February 13, 2017; June 21, 2017; February 22, 2018; September 12, 2019; June 30, 2021; February 28, 2023; April 20, 2023; August 4, 2023; October 30, 2023; February 22, 2024; June 28, 2024; September 16, 2025.

¶1 REBECCA FRANK DALLET, J. (*concurring*). This court's Internal Operating Procedures (IOPs) are "continually review[ed] . . . to improve the efficient processing of [the court's] caseload and the effective discharge of its administrative responsibilities," "and may be changed without notice as circumstances require." Wis. S. Ct. IOP Introduction. Since the IOPs were first adopted in 1984, they have been amended at least 24 times——each one by majority vote. Consistent with that longstanding practice, at the start of the 2023–24 term and after actively seeking the input and participation of the entire court, a majority of justices voted to amend the IOPs. Unfortunately, some members of the court chose not to participate in that process. They write separately now not to address disagreements with the current amended IOPs but to rehash the past and vent grievances about the now-superseded 2023 amendments.

¶2 Those 2023 amendments, in effect for the last two terms, made our court's decision-making more transparent, responsive, and timely. They brought back open administrative conferences, previously eliminated from the IOPs by a prior majority vote, allowing the public once again to see the Court's deliberations on matters involving the judicial system. They added deadlines for justices' separate writings on court orders, facilitating timely decisions while allowing opportunities for all justices to express their views. And they created the Supreme Court Administrative Committee, comprised of two justices and the chief justice, to

oversee some administrative matters.[2] Collectively, the 2023 amendments prevented any single justice from impeding the court's important work. In particular, by imposing deadlines for separate writings in all cases, the changes ensured that no individual justice could hold up the court's work on any case.

¶3 What the 2023 amendments did not do was remove all of the chief justice's authority. Chief Justice Ziegler continued to be the chief justice and to perform the duties of that office, including presiding over oral argument, leading court conferences, and conducting much of the day-to-day business as administrative head of the judicial system. She was also a member of the Supreme Court Administrative Committee, which met weekly to discuss matters concerning court administration.[3]

¶4 But, as Justice Hagedorn said, "what's past is past." Justice Hagedorn's concurrence, ¶10. For that reason, we should focus on the most recent amendments to the IOPs, adopted on September 16, 2025. After Chief Justice Ziegler's term came to an end, the Court elected Chief Justice Ann Walsh Bradley to serve for two months, and then elected Chief Justice Karofsky to serve the remainder of the two-year term. Amendments to the IOPs were

[2] The Wisconsin Constitution makes the chief justice "the administrative head of the judicial system," but provides that she exercises that authority "pursuant to procedures adopted by the supreme court." Wis. Const. art. VII, § 4.

[3] Supreme Court Administrative Committee Meetings were open to any member of the court who wished to participate, either in person or by video conference. Following each meeting, minutes were distributed to the entire court.

again proposed "as circumstances require[d]." Wis. Sup. Ct. IOP, Introduction. Because a majority concluded that the Supreme Court Administrative Committee was no longer necessary, the provisions referencing it were removed. Other changes were made, including additional deadlines for writings (again that apply to all cases), improved oral argument procedures, and a requirement that the court vote during open administrative conferences for or against a rule petition and for its effective date. As with the prior changes, these amendments were guided by a desire to improve transparency, responsiveness, and timeliness in our decision-making.

¶5 The process that led to the current amendments to the IOPs is just one example of the progress we have made in building a collegial court. This time, all members of the court participated. As the separate writings indicate, we worked collaboratively and built consensus around many of the changes that were made. I hope we will build on that progress in the future as well, as we continue the conversation over how best to conduct the court's business. We may at times disagree over the best way "to improve the efficient processing of [the court's] caseload and the effective discharge of its administrative responsibilities." Wis. S. Ct. IOP Introduction. But the current amended IOPs provide procedures for conducting the court's business collegially, efficiently, transparently, and with accountability to the public. For these reasons, I respectfully concur. Forward.

¶6 I am authorized to state that Chief Justice JILL J. KAROFSKY and Justice JANET C. PROTASIEWICZ join this concurrence.

¶1 BRIAN HAGEDORN, J. (*concurring*). The Wisconsin Supreme Court is composed of seven justices who are supposed to be members of the same team. Unlike trial courts, when we act, we do so collectively. To accomplish this, over the last 175 years, this court has established various practices and traditions, both formal and informal. These practices ensure all voices are heard, create clear lines of decision-making authority, and establish consistent and neutral processes to govern our case-deciding and administrative work. Some of these are reflected in formally adopted Supreme Court Rules, and some in our Internal Operating Procedures. But the true currency of a court like ours is trust. When trust is broken like it has been here, every aspect of our work suffers.

¶2 This all began in the summer of 2023 when four justices wished to make significant changes to how this court functions. Fair enough. These modifications could have been pursued through a process built on collegiality and mutual respect. Instead, my colleagues pursued a more destructive path.

¶3 The morning our then-newest justice was sworn into office——August 1, 2023——my four colleagues at that time set off to reshape our court and the operation of the court system. They had apparently engaged in significant discussions in the months prior and decided to force through these changes during our summer recess, and to do so via email with or without the input of their other colleagues. They issued a press release triumphantly announcing that these changes were all about transparency, accountability, and inclusivity. This was true in the same way

Pearl Harbor was a strike for peace in the Pacific. I will not rehash every detail (Justice Ziegler's excellent writing recounts much of the history), but the reader deserves a taste.

¶4 The first shot sounded when my four colleagues fired the Director of State Courts, who functions as the CEO of administrative matters for the entire judicial branch. Without following any established process, one of my colleagues sent an email proposing that we fire our Director and install a new, pre-selected interim Director in his place. This happened through email, over the course of two business days, while the Director was out of town on state business, during our summer recess. He never received a performance review indicating concerns; he was simply told his employment was over. This came just months after some of these same colleagues emphasized the importance of having all justices participate in hiring key staff.

¶5 Later that same week, my colleagues proposed dramatic changes via email affecting both our case-deciding and administrative responsibilities. The email invited justices to attend a new, unscheduled meeting of the court later that week to discuss the proposals. One justice said she could not be there; another objected to the meeting as outside our court calendar. The meeting would go forward no matter what, we were told. I implored my colleagues to reconsider, to treat their fellow colleagues with the respect they would want if circumstances were reversed. They refused. The meeting went on as expected, and with only four members present, they voted to fundamentally remake our court.

¶6 Among their changes, my colleagues radically altered the role of the chief justice. They created a new, three-person administrative committee (on which the chief justice would ostensibly sit) to take over nearly all of the chief justice's most important administrative duties. And they did so in the face of serious objections that these changes violated the Wisconsin Constitution, which says the chief justice "shall be the administrative head of the judicial system." Wis. Const. art. VII, § 4. One justice who in the past championed the constitutional role of the chief justice suddenly changed course. Again, these actions stripping the chief justice of powers she had exercised for as long as anyone could remember were proposed via email, and were voted on a few days later during an unscheduled meeting of just four justices during our summer recess. Not exactly transparent, accountable, and inclusive.

¶7 Another significant series of amendments to our internal rules involved modifying the way we consider certain kinds of cases, essentially making it much easier for this court to expedite cases coming to us outside the normal appeals process. Why the change? As everyone understood, my colleagues had the not-so-secret goal of swiftly hearing particular politically charged cases. This was all by design.

¶8 And how did this experiment go? Not well. Administratively, it was not clear who was in charge. We experienced significant breakdowns in communication amidst a lack of clarity about who was doing what. Our staff was often caught in the middle of a court that did not have established lines of

communication and authority. And when the Director of State Courts was unceremoniously fired for what many perceived as political reasons, it sent a shockwave through the system. Furthermore, my colleagues' changes were not one and done. Throughout the past two years, they continued to modify the court's procedures in a similar ad-hoc fashion, often after realizing problems with their earlier ill-considered changes. This only added to the confusion.

¶9 Finally, at one of the court's internal conferences this past June, my colleagues shifted course. One of the four announced she was "withdrawing" her prior votes from the past two years (which, by the way, is not a thing) with the idea that every disputed change was now, all of a sudden, reversed. What changed? Again, it was no mystery. My colleagues wanted to take power away from then-Chief Justice Annette Ziegler. Such a move ensured that my colleagues would run the court through the administrative committee. Following the April 2025 election, they concluded they would have the votes to elect a chief justice of their choosing and have a block of votes to support her, so they no longer needed to seize those powers. This is not a cynical take. It is exactly what happened.

¶10 What's past is past, however. I have no desire to hold this against my colleagues, and I am grateful they have changed course. In fact, I was happy to work collaboratively on many operational changes reflected in this order, most of which I

support.[1] But I write because the last two years contain a lesson this court must take to heart.

¶11 My colleagues' actions caused great damage to our institution. The most significant consequence, far beyond operational inefficiencies, was the loss of trust. I offer three cheers for a public commitment to transparency and collegiality, but these principles were dispensed with at the very moment they were needed. My four colleagues believed certain short-term goals justified the hardball tactics. In other words, the ends they were pursuing were worth sowing suspicion, deepening dysfunction, and further entrenching the tribalism that has infected our court.

¶12 This court's maladies are nothing new; they are decades in the making. Internal squabbles and conflict long predate my time on the court. But sadly, my colleagues' actions in this matter did little to stop the cycle and much to perpetuate it. The Wisconsin Supreme Court was once a hallmark of scholarly rigor and professional distinction. Now, the legal world looks askance at the latest headlines from our court. We are well known——not for our decisions, but for our polarization and inability to work together.

¶13 Even so, this court need not remain in the shadows of its past failures. It is never too late to start the repair process. Maybe this year we can try. What if the Wisconsin Supreme Court became a turnaround story known for its

[1] While I do not agree with every change the court makes today, I do agree with most, and strongly support the restoration of the appropriate and historical powers of the chief justice.

professionalism and collegiality? It could happen. But it is possible only if all seven members of this court resolutely commit to rebuilding the trust that has been broken——brick by brick, decision by decision.

¶14 The framers of our constitution vested this court with the torch of leadership. The people of Wisconsin deserve a supreme court that prioritizes mutual respect——one that recognizes we are all on the same team. Throughout the past two years, we moved further away from this because my colleagues chose another way. With the hope that our court might chart a different course moving forward, I respectfully concur.

¶1 ANNETTE KINGSLAND ZIEGLER, J. (*dissenting, in part*). On August 4, 2023, four members of this court met at an unscheduled conference——without proper notice to their three colleagues, one of whom was the Chief Justice——and unilaterally revised the court's Internal Operating Procedures (IOPs) and Supreme Court Rules (SCRs). In so doing, they disregarded the IOPs then in effect (which precluded them from meeting outside the court term and without unanimous consent) and ignored repeated requests from their colleagues to hold a properly noticed conference in September. The result was a fundamental and abrupt change in how this court conducts its business and, more importantly, an undermining of the Chief Justice's long-recognized constitutional authority.[1]

¶2 From 1984——when the court first adopted a written document setting forth its IOPs——until August 4, 2023, those procedures were amended some 19 times over 38 terms. Since August 4, 2023, the IOPs have been amended seven more times, six of those during the 2023-24 term alone.[2]

¶3 I began writing this dissent in August 2023, when I was Chief Justice of the Wisconsin Supreme Court. My initial intention

[1] The constitutional authority of the Chief Justice has been restored in the revisions to the IOPs set forth in this order. My final term as Chief Justice ended on April 30, 2025.

[2] The 2023-24 changes to the IOPs were circulated and recirculated on August 1 and 4, 2023; September 24, 2023; February 21, 2024; April 29, 2024; and June 17, 2024. The revisions set forth in today's order became effective September 16, 2025, and the updated IOPs were posted on the court's website with no indication this dissent was forthcoming.

was to record my objections to the August 4, 2023 revisions and the additional amendments that followed. As reflected in today's order, many of the changes to which I objected——particularly those undermining the Chief Justice's constitutional authority——have since been restored to the pre-August 2023 version of the IOPs. Nevertheless, I include my original objections and commentary for historical preservation. My aim is to provide context for what will be remembered as a profoundly damaging moment in this court's history.

¶4 I do not dissent from all of the amendments contained in today's order. To be clear, a majority of the court has the ability to amend a number of provisions and to those I do not dissent. However, it is important to point out how we got here, so much of what follows now constitutes history. Conveniently, the court restored the Chief Justice's constitutional authority and dispensed with the administrative committee meetings when the majority controlled the position of Chief Justice. The power grab is no longer necessary. I continue to object to the uncollegial and improper manner in which the four justices revised the IOPs on August 4, 2023, and to the substance of many of those revisions, which were unconstitutional and unenforceable.[3] Accordingly, I dissent——but only in part.

[3] Some of the revisions could have been accomplished by the four, but they would have needed to adopt them during the court's term at a properly scheduled meeting.

I. A BRIEF HISTORY OF THIS COURT'S WRITTEN IOPS

¶5 On May 24, 1984, the court first adopted a written document setting forth its internal operating procedures. The IOPs are not rules of appellate procedure; rather, they describe how the court processes, considers, and decides matters brought before it. Over the years, the IOPs have been amended as necessary to reflect procedural changes.

¶6 Amendments to the IOPs have traditionally been documented by court order or by posting the updated version on the court's website. To my knowledge, however, never before had amendments appeared on the website without a written order of this court when a justice sought to dissent. That is precisely what happened here.[4] In other words, unlike any time before, dissent is silenced.

¶7 Prior to August 1, 2023, changes to the IOPs were properly adopted at duly-noticed court conferences. While justices have disagreed about procedural details or deadlines, there had never been a dispute over the fundamental legitimacy of the court's IOPs——that is, until the August 4, 2023 amendments. With hindsight, the reason those amendments were handled differently has become clear.

II. THE 2023-24 TERM AND THE "COURT-OF-FOUR"

¶8 Nothing in this court's history resembles the events of the 2023-24 term. Before the term began, four justices——Ann Walsh Bradley (retired July 31, 2025), Rebecca Frank Dallet, Jill J.

[4] See supra note 2.

Karofsky, and Janet C. Protasiewicz——met in secret to orchestrate a power shift: a fundamental change in how the court operated, designed to diminish the constitutional authority of the Chief Justice. Under the guise of promoting "transparency,"[5] they concealed their plan from the public and from three of their colleagues. Throughout the 2023-24 term, these four continued to impose their will, repeatedly revising the IOPs——six times in a single term.[6]

¶9 The four contended that their colleagues should have convened at their demand on August 4, 2023. Yet, the court has never conducted its business by command. Historically, conferences were held only at unanimously agreed-upon dates and times. There was no genuine urgency requiring immediate amendment of the IOPs in August of 2023; such changes have always occurred during the regular term, from September through June.[7] Even during ideological divisions, every justice in the court's history understood, at a minimum, that acting otherwise would be a fundamental breach of collegiality. Had the circumstances been

[5] Justice Dallet: Statement of Supreme Court Justice Rebecca Dallet Regarding Transparency and Accountability Measures, WisPolitics (Aug. 4, 2023), https://www.wispolitics.com/2023/justice-dallet-statement-of-supreme-court-justice-rebecca-dallet-regarding-transparency-and-accountability-measures/ (suggesting the changes made to the IOPs and SCRs were "'transparency and accountability measures'" despite all evidence to the contrary).

[6] See supra note 2.

[7] Interestingly, since August 4, 2023, all five subsequent amendments to the IOPs were accomplished during the regular court term, September through June.

reversed, these same four justices would have protested loudly. Instead, they dismissed the objections, suggesting there was "nothing to see." History will judge this episode as a disruptive and disrespectful departure from the court's collegial tradition.

¶10 The IOPs exist for a reason, as do the procedures governing their amendment. While procedural adjustments have occasionally been necessary, one constant remained: recognition of the Chief Justice's constitutional role. For decades, regardless of court composition, the IOPs preserved that understanding. It ensured transparency, fairness, and participation by all seven justices, including dissenters, within a deliberative process.

¶11 Yet the four justices could not wait to impose their will. They began exercising control before a single day of official court business had been conducted. Seizing authority over the docket and the court's internal operations, they elevated certain matters for immediate attention, including those with clear partisan overtones. Their actions inflicted lasting harm on the institution.

¶12 Had any one of the four withdrawn her consent to this coup, this dissent might have been unnecessary. Nearly every procedural change they sought could have been accomplished lawfully and collegially.[8] Instead, they chose unconstitutional means to achieve short-term ends, disregarding the constitution, precedent, established rules, and even basic professional decency.

[8] That does not mean, of course, the decisions they rendered were in accordance with the law. Many were not. See, e.g., Priorities USA v. WEC, 2024 WI 32, 412 Wis. 2d 594, 8 N.W.3d 429.

¶13 The consequences caused chaos and dysfunction. By creating a fictitious "supreme court administrative committee"——an entity nowhere recognized in our constitution——the four justices usurped the Chief Justice's authority to administer the court system. Two members of this judicial coup appointed themselves to that committee, arrogating to it the administrative powers of the Chief Justice. Emboldened, they then seized control of the court, fast-tracking cases with unmistakable political implications.[9]

¶14 In doing so, the four discarded decades of precedent and embraced a "power-at-any-cost" mentality. That mindset has no place in any court, least of all this one. Behind closed doors, at unscheduled and unnoticed meetings, they repeatedly altered rules and procedures without input from their colleagues. This was not the conduct of a deliberative body. Trust and collegiality——hallmarks of a functioning judiciary——were shattered. Through this hostile takeover, the four justices caused profound and perhaps irreversible damage to the Wisconsin Supreme Court. I feel deep sorrow for the institution as I respectfully, but resolutely, dissent.

[9] Clarke v. WEC, 2023 WI 70, 409 Wis. 2d 372, 415, 995 N.W.2d 779 (Hagedorn, J., dissenting) (published order; noting the majority "dutifully adopt[ed] an accelerated briefing and oral argument schedule" and changed the court's internal writing deadlines for original actions "to ensure [Clarke] would be fast-tracked"); see also Priorities USA, 412 Wis. 2d 594; Evers v. Marklein, 2024 WI 31, 412 Wis. 2d 525, 8 N.W.3d 395; Brown v. WEC, No. 2024AP232, unpublished order (Wis. May 3, 2024).

III. THE ADMINISTRATIVE HEAD OF THE COURT SYSTEM: CHIEF JUSTICE OF THE WISCONSIN SUPREME COURT

¶15 The Chief Justice's constitutional role as the administrative head of the Wisconsin court system is clear and has long been recognized. The Wisconsin Constitution vests administrative authority of the court system in the Chief Justice, providing that the Chief Justice "shall be the administrative head of the judicial system." Wis. Const. art. VII, § 4(3). The Chief Justice exercises that authority "pursuant to procedures adopted by the supreme court," such as the IOPs and SCRs. Id. From 1984 until August 4, 2023, the IOPs consistently recognized the Chief Justice as the sole judicial officer constitutionally empowered to exercise this administrative authority. No other justice, committee, or third party was ever granted that power.

¶16 The four justices violated this clear constitutional directive by meeting secretly at unscheduled, unnoticed gatherings, purporting to amend the IOPs, and creating an extra-legal "supreme court administrative committee" composed of "the chief justice and two justices selected by a majority of the supreme court." Wis. S. Ct. IOP II. (Aug. 4, 2023).[10] This invention directly usurped the Chief Justice's constitutional authority. The committee was not a "procedure" through which the Chief Justice exercised authority. It was a substitute for the Chief Justice herself. As Justice Rebecca Grassl Bradley aptly

[10]For a complete recap of the August 4, 2023 IOP revisions, see Statement of Chief Justice Annette Kingsland Ziegler, Wis. Ct. Sys. (Aug. 4, 2023), https://www.wicourts.gov/news/archives/view.jsp?id=1578&year=2023.

observed, the authority to establish procedures for exercising administrative power is not the same as the authority to exercise that power. The four justices' actions exceeded their constitutional limits. Claiming that they had not entirely stripped the Chief Justice's power was no defense. A constitutional violation does not vanish simply because it might have been worse.

¶17 As the administrative head of the court system, the Chief Justice is responsible for "schedul[ing] oral arguments, decision conferences, and administrative conferences on any date in the agreed-upon calendar," which is agreed to by the court each spring, during the court's business year (September through June). Wis. S. Ct. IOP III.A. ("Court Schedule") (Apr. 20, 2023; Sept. 16, 2025). The August 4, 2023 amendments removed that responsibility from the Chief Justice and vested it in the newly-created administrative committee, empowering it to "set a schedule for oral arguments, decision conferences, rules hearings, and administrative conferences." If the court failed to agree unanimously on the proposed calendar, the committee could set dates unilaterally. Wis. S. Ct. IOP IV.A. ("Court Schedule") (Aug. 4, 2023); see note 10, supra.

¶18 The Chief Justice also traditionally sets the monthly case assignments based on the court's calendar. Wis. S. Ct. IOP III.C. ("Submission Calendar") (Apr. 20, 2023; Sept. 16, 2025). Yet, on August 4, 2023, the four justices amended the IOPs to transfer that authority as well, allowing their administrative committee to determine which cases would be assigned each month.

Wis. S. Ct. IOP IV.C. ("Submission Calendar") (Aug. 4, 2023); see note 10, supra.

¶19 Curiously, the four later revised these provisions again, restoring the "Court Schedule" and "Submission Calendar" to their pre-August 2023 form. Wis. S. Ct. IOP IV.A. (May 13, 2024); Wis. S. Ct. IOP IV.C. (Jun. 17, 2024). The reason for this reversal is evident: the temporary changes had already served their purpose. They enabled the four to seize control of the court long enough to prioritize particular cases——most notably the "redistricting" litigation, Clarke v. Wisconsin Elections Commission, 2023 WI 79, 410 Wis. 2d 1, 998 N.W.2d 370.[11]

¶20 Before August 2023, the IOPs always recognized that the Chief Justice provides direction to the Director of State Courts, who serves as the "chief nonjudicial officer of the court system." Wis. S. Ct. IOP II.A.1. (Apr. 20, 2023); see also SCR 70.01(1).[12] The four disregarded that structure, directing instead that the

[11] The original action petition for Clarke was filed on August 2, 2023, just one day after Justice Protasiewicz officially took office as a justice on the court. Clarke, 410 Wis. 2d 1, ¶238 (Rebecca Grassl Bradley, J., dissenting).

[12] Supreme Court Rule 70.01 provides:

> The director of state courts shall be the chief nonjudicial officer of the court system in the state. The director shall be hired by and serve at the pleasure of the supreme court, under the direction of the chief justice. The director shall have authority and responsibility for the overall management of the unified judicial system.

SCR 70.01(1) (2025).

director serve "at the direction of the supreme court administrative committee." Wis. S. Ct. IOP III.A.1. (Aug. 4, 2023); see note 10, supra. They also unceremoniously fired the Director of State Courts, deciding to do so even before the fourth justice began her term on the court.[13]

¶21 Although the examples above are not exhaustive, they are illustrative. By their unprincipled conduct, the four justices supplanted the Chief Justice's constitutional authority with an entity unknown to the constitution. The Chief Justice was reduced to acting only "as determined by the supreme court administrative committee," effectively held hostage to the will of the majority rather than guided by constitutional duty.

¶22 Why this precipitous and unconstitutional descension—— and why at that time? For over four decades, across five Chief Justices, the term "chief justice" had never been excised from the IOPs. Yet on August 4, 2023, it was deleted 15 times.[14] The constitutional authority of the Chief Justice had always been

[13] See Chief Justice Annette Kingsland Ziegler: Statement, WisPolitics (Aug. 2, 2023), https://www.wispolitics.com/2023/chief-justice-annette-kingsland-ziegler-statement/; Clarke, 410 Wis. 2d 1, ¶¶78-103 (Ziegler, C.J., dissenting). See also Koschnick Says New Liberal Majority on State Supreme Court Poised to Fire Him as State Courts Director, WisPolitics (Aug. 1, 2023), https://www.wispolitics.com/2023/koschnick-says-new-liberal-majority-on-state-supreme-court-poised-to-fire-him-as-state-courts-director/#:~:text=Director%20of%20State%20Courts%20Randy,six%20years%20on%20the%20job.

[14] The amendments set forth in today's order have restored the term "chief justice" in place of "supreme court administrative committee." The section purporting to create the "supreme court administrative committee" on August 4, 2023, has been removed.

respected——by Chief Justices Nathan Heffernan (1983–1995), Roland Day (1995–1996), Shirley Abrahamson (1996–2015), Patience Drake Roggensack (2015–2021), and myself (2021–2025). The August 4, 2023 amendments represented an unmistakable and unprecedented power grab.

¶23 I did not, and do not, condone such lawless disregard of the constitution or the judiciary. I refused to participate in or acknowledge the sham "committee" during my tenure as Chief Justice.

IV. A TRIED (AND FAILED) CONCEPT

¶24 The notion of creating an administrative committee to exercise powers constitutionally assigned to the Chief Justice was not new, and had previously been rejected. In 1998, several justices attempted to establish an "Administrative Committee of the Supreme Court,"[15] composed of four justices, to act as a surrogate chief justice overseeing the court system.[16] That proposal was quickly abandoned after then-Chief Justice Shirley Abrahamson objected, threatening litigation over its unconstitutionality. She correctly insisted that such a committee would impermissibly infringe upon the Chief Justice's

[15] David Callender, High Court Coup Details Emerge, Cap. Times, Feb. 13, 1999.

[16] David Callender & Matt Pommer, Robes & Daggers in Top Court: Four Justices Tried a Coup, Cap. Times, Feb. 6, 1999.

constitutional authority: "I would never vote to diminish the powers granted to the chief justice by the constitution."[17]

¶25 Former Justice Ann Walsh Bradley, at that time, was among those who vehemently opposed the 1998 proposal. She denounced it as "personal ambition, politics, and pettiness," declaring that its proponents were "interested in toppling the chief."[18] She, too, threatened to sue her colleagues rather than acquiesce in an unconstitutional limitation on judicial independence: "I wouldn't let them make me a potted plant."[19]

¶26 What changed between 1998 and 2023? Chief Justice Abrahamson was no longer on the court, and the four justices in 2023 had embraced a results-driven, ends-justify-the-means agenda. They sought to distinguish their 2023 committee from the failed 1998 effort by noting that the Chief Justice sat on the newer committee. That distinction is illusory. The Chief Justice was one of three members and would be consistently outvoted by the other two. Whether the Chief Justice nominally participated or

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[17] Cary Segall, Four Tried to Reduce Powers of Chief Justice: Bablitch and Three Others Sought a Rule Transferring Authority to Handle Many Administrative Matters, Wis. State J., Feb. 13, 1999.

[18] Cary Segall, Justices Lay Bare Problems with Abrahamson; Four Upset They're Left Out of Decisions, Wis. State J., Feb. 14, 1999.

[19] Segall, supra note 17 ("[The four justices] backed off when Justice Ann Walsh Bradley, upset about a provision that would have limited the ability of justices to get help from court employees, threatened to sue. 'I wouldn't let them make me a potted plant,' [Bradley said]. 'I threatened to sue when they were going to try and limit my ability to do my job.'").

not, her authority was nullified. The only meaningful difference between 1998 and 2023 is that the earlier proposal was abandoned, while the latter was pursued——until it was no longer useful to the majority.

¶27 Although the four justices asserted that their committee was constitutional, Justice Ann Walsh Bradley never reconciled her dramatic reversal. For decades, she championed an expansive view of the Chief Justice's authority. Yet, in 2023 she aligned herself with those seeking to dismantle it. Was her earlier position mere rhetoric when her ally held leadership? The constitutional role of the Chief Justice should not shift with the court's composition. If Justice Walsh Bradley had remained true to her former principles, this unconstitutional experiment would never have occurred. For nearly half a century, the Chief Justice's authority had been understood and respected, regardless of ideology.

V. THE CONSTITUTIONAL SAFEGUARD OF JUDICIAL INDEPENDENCE

¶28 The Wisconsin Constitution carefully separates judicial administration from judicial decision-making to preserve the independence and integrity of both. The Chief Justice's administrative role functions as a safeguard, ensuring that no faction of justices, however motivated, can commandeer the machinery of justice for political or ideological gain. The framers of our constitution wisely recognized that judicial independence is not merely a matter of deciding cases free from external influence, but also of maintaining an internal structure resistant to domination by a transient majority.

¶29 The Chief Justice's singular administrative authority serves that purpose. It prevents the judiciary from devolving into a political body subject to shifting alliances and coalitions. By vesting the administrative power in one constitutional officer, the Chief Justice, the constitution guarantees a steady, identifiable, and accountable hand at the helm of the court system. Diffusing that authority among fluctuating committees of justices, answerable to no one and governed by no transparent process, invites chaos and erodes public confidence in the judiciary's impartiality.

¶30 The four justices' attempt to reallocate that constitutional authority fundamentally altered the balance of power within the judicial branch. It replaced a constitutional model of stability and accountability with one of instability and factional control. Administrative actions once attributable to a single constitutional officer subject to clear constitutional limits and traditions, were suddenly made subject to the will of whichever justices could muster a majority. The inevitable result was confusion, distrust, and the appearance of partisanship.

¶31 The judiciary's legitimacy depends upon its adherence to law, not its pursuit of outcomes. When the court itself disregards the constitution to achieve expedient goals, it diminishes its moral authority to insist that others obey the law. The people of Wisconsin are entitled to expect that their supreme court will model fidelity to the constitution, not manipulate it. The rule of law cannot be preserved by those who treat it as an obstacle.

¶32 The constitution is not a menu of suggestions but a command of governance. When justices act contrary to those commands, they do not merely err, they betray their oath. The oath of judicial office binds each justice to support the constitution, not to bend it to convenience or ideology.

¶33 The constitutional role of the Chief Justice thus protects not the officeholder's personal prerogatives, but the institutional integrity of the judiciary itself. By undermining that office, the four justices imperiled more than one individual. They compromised the very structure that sustains an independent judicial branch.

VI. RESTORATION OF CONSTITUTIONAL ORDER

¶34 The restoration of lawful administration within the Wisconsin judiciary requires more than reverting textual amendments or abandoning unconstitutional practices. It demands a conscious recommitment to constitutional governance and to the principles that sustain judicial legitimacy. The court must reaffirm that the Chief Justice alone, as the administrative head of the Wisconsin court system, exercises administrative authority pursuant to procedures adopted by the court——not at its pleasure, and not subject to majority control.

¶35 The proper corrective is thus both structural and principled. Structurally, the IOPs must reflect the constitution as written, not as momentarily interpreted by a faction. The unlawful "supreme court administrative committee" must be formally disbanded and all actions taken under its purported authority

declared void. The constitution cannot coexist with a parallel administrative body unknown to its text.

¶36 In principle, each justice must recommit to the restraint that a constitutional office demands. The constitution's meaning does not alter with political tides or personal frustration. To maintain the separation of powers, each branch——and each member within it——must respect the boundaries the people have imposed. Judicial independence is preserved not by self-assertion, but by self-restraint.

¶37 The judiciary cannot credibly insist that the executive and legislative branches respect constitutional limits if it refuses to do so itself. The rule of law is not maintained through selective fidelity. The legitimacy of the judiciary rests upon its reputation for impartiality and for adherence to the rule of law. The moment a court acts as though it is above the law, it ceases to be a court and becomes a political instrument.

¶38 To restore public trust, transparency must replace secrecy. Meetings of the court concerning its internal governance should occur only with notice to all justices and adherence to the procedures long established in the IOPs. Unscheduled gatherings——especially those intended to alter governing documents——erode collegiality and invite public suspicion. Justice requires not only integrity of outcome but integrity of process.

¶39 It is also imperative that future justices remember that power obtained through disregard of the constitution is fleeting. The same device used to undermine one Chief Justice can be turned against another. Only adherence to law provides lasting stability.

Today's expedient majority may be tomorrow's minority, and precedent born of convenience seldom survives principle.

¶40 The Wisconsin Constitution has endured for more than 175 years because it constrains power even when its exercise seems tempting. The events of 2023–2025 are a cautionary tale. They remind us that the constitution's endurance depends not on parchment, but on people——on each justice's commitment to humility, discipline, and duty.

¶41 The path forward is simple, if not easy: Obey the constitution. Restore the authority of the Chief Justice as the administrative head of the Wisconsin court system. Disavow the notion that a majority may rewrite constitutional structure by fiat. And above all, restore the public's confidence that this court governs itself by the same rule of law it requires of everyone else.

VII. CONCLUSION: FIDELITY TO LAW ABOVE ALL

¶42 The events surrounding the unconstitutional reallocation of authority within the Wisconsin Supreme Court are more than an institutional dispute. They are a test of constitutional character. When judges depart from the constitution, they imperil not only the separation of powers but also the public's faith in the judiciary as an impartial guardian of the rule of law. The judiciary's moral authority does not arise from coercive power, but from obedience to principle.

¶43 For nearly half a century, the Wisconsin Supreme Court functioned under a stable understanding of the Chief Justice's role as the administrative head of the court system. That

continuity transcended ideology and preserved institutional balance. The August 4, 2023 amendments shattered that equilibrium, substituting personal ambition and political convenience for constitutional fidelity. Such conduct, regardless of motive, cannot be squared with the oath each justice swears to "support the constitution of the United States and the constitution of the state of Wisconsin." Wis. Const. art. IV, § 28.

¶44 The damage inflicted by such lawlessness extends beyond administrative confusion. It erodes the culture of collegiality and mutual respect that is essential for a functioning court. It discourages the open exchange of ideas and replaces deliberation with distrust. No institution, least of all a court, can flourish in an atmosphere where the constitution is treated as a tactical instrument rather than a binding command.

¶45 Yet, renewal is possible. The constitution remains constant, awaiting only our fidelity. The judiciary can restore its integrity by returning to the plain text and meaning of its charter. That means acknowledging past errors, rescinding unlawful acts, and recommitting to the disciplined exercise of constitutional authority. Humility before the law, not dominance within the court, must once again guide our conduct.

¶46 The Chief Justice's role, as defined by the People through their constitution, is not a matter of preference or personality. It is a cornerstone of judicial independence. To respect that design is to respect the sovereignty of the people who adopted it. To disregard it is to assume for ourselves the

power they withheld. The latter path leads not to leadership, but to illegitimacy.

¶47 Our duty is therefore clear. We must govern ourselves by law——fully, faithfully, and without exception. The Wisconsin Supreme Court must again model the restraint it demands of others. Only then can we speak with moral authority when we declare, as we so often must, that no one is above the law.

¶48 The strength of the judiciary lies not in unanimity, but in integrity. A court faithful to the constitution need not fear disagreement; only a court unmoored from it need fear exposure. The rule of law endures because those entrusted to interpret it submit themselves to it. When justices remember that truth, the judiciary remains a source of justice. When they forget, the institution itself falters.

¶49 Let this chapter in the court's history serve as both warning and renewal, a reminder that the constitution is not self-executing; it lives only through the character of those sworn to uphold it. Fidelity to law, not the pursuit of power, defines our legitimacy. And so long as the Wisconsin Supreme Court governs itself by that timeless truth, it will continue to merit the confidence of the people it serves.

¶50 For all the foregoing reasons, I dissent, in part.

¶1 REBECCA GRASSL BRADLEY, *J.(dissenting).*

> "Power, like a desolating pestilence, Pollutes whate'er it touches."

Percy Bysshe Shelley, Queen Mab III (1813).

¶2 Upon assuming office in 2023, Janet Protasiewicz formed a political bloc with Ann Walsh Bradley, Rebecca Frank Dallet, and Jill Karofsky. Despite holding the office of "Justice," the members of this new majority acted like partisans at every opportunity, laying waste to the constitution and the rule of law. They began the 2023-24 term as a court of four,[1] revamping supreme court rules and internal operating procedures ("IOPs") and excluding their colleagues from the process. Historically, changes to these rules and procedures are made over time, with thoughtful consideration of ways the court may better serve the People. Not this time.[2] The four invoked their tired buzzwords of "transparency" and "inclusiveness" to cover their real purposes: unconstitutionally divesting the chief justice of power;

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[1] The court of four met separately, made decisions, and then presented the matter to the remaining three for "discussion." The outcome was a foregone conclusion. The four discussed and drafted revisions to the IOPs and then tried to rope the excluded justices into their charade of "discussing" them. This is not how any collegial court in the country operates. The court of four attempted to cloak its misdeeds with constitutional cover, but the quorum clause of the Wisconsin Constitution merely ensures cases may be decided notwithstanding multiple recusals. Wis. Const. art. VII, § 4. It is not a license to exclude three members of the court from every administrative decision.

[2] Jack Kelly & Matthew DeFour, Wisconsin Supreme Court Emails Detail Chaotic First Week of Liberal Control, Wis. Watch (Aug. 29, 2023), https://wisconsinwatch.org/2023/08/wisconsin-supreme-court-emails-detail-chaotic-first-week-of-liberal-control/.

facilitating the expeditious consideration of cases brought by their political allies; and silencing their dissenting colleagues with artificial and ridiculous deadlines. Their malleable new rules were deliberately restructured to achieve the policy outcomes desired by progressive activists. See Justice Ziegler's dissent in part, ¶13. As soon as then-Chief Justice Annette Kingsland Ziegler's term ended, they scrapped their temporary "rules" and restored the chief justice's powers.

¶3 The four began their first term together by firing the Director of State Courts, retired Judge Randy Koschnick, signaling to court employees that failure to obey them would be met with termination. The court of four violated the Wisconsin Constitution by appointing a sitting circuit court judge as the Director of State Courts.[3] As the term progressed, the interests of the People took a back seat to the interests of the progressive majority's political benefactors, as the four fast-tracked political cases to advance their partisan objectives while decimating the law. The court's case load plummeted to a historic low of 14 decisions on the merits (at least the damage to the law was minimized) with the court of four voting in agreement in every single case. Such "bloc cohesion" may be found in the legislative branch——a political body——but never in recorded history has the same majority of justices demonstrated unwavering uniformity in deciding every

[3] The Wisconsin Constitution prohibits judges from holding "any other office of public trust, except a judicial office, during the term for which elected." Wis. Const. art. VII, § 10.

matter.[4] Justices are supposed to decide cases with independent minds and not as a political bloc. Attorneys should note the lack of law development by this new majority as its members have chosen to prioritize their political pet issues while brushing aside actual legal questions.

¶4 Capping their first term as a progressive majority, the four stripped retired Justice David T. Prosser's name from the State Law Library, a petty act of political retribution. Justice Prosser died months later. Since they took control, the Wisconsin Supreme Court has become a national embarrassment. Their dishonorable conduct deserves condemnation.

¶5 I conclude by showcasing the hypocrisy of the then-longest serving member of the court, who dishonored its institutional integrity, having yielded to the temptations of power. In 1998, four justices tried to create an administrative committee to reduce then-Chief Justice Shirley S. Abrahamson's administrative authority, which one newspaper called a "high court coup." David Callender, High Court Coup Details Emerge, Cap. Times, Feb. 13, 1999. Those four justices were castigated for attempting to "create[] a surrogate chief justice . . . ." David Callender & Matt Pommer, Robes & Daggers in Top Court: Four Justices Tried a Coup, Cap. Times, Feb. 6, 1999, at 1A. Then-Chief Justice Abrahamson and Justice Ann Walsh Bradley threatened to sue, believing an administrative committee to be

[4] Alan Ball, The 2023-24 Term: Some More Impressions, SCOWstats (July 15, 2024), https://scowstats.com/2024/07/15/the-2023-24-term-some-more-impressions/.

unconstitutional, and the four justices abandoned their plan. Id.; see also Cary Segall, Justices Lay Bare Problems with Abrahamson: Four Upset They're Left Out of Decisions, Wis. State J., Feb. 14, 1999, at 1A. Back then, Justice Ann Walsh Bradley said the following regarding the proposed administrative committee: "Let's call a spade a spade . . . . This is about personal ambition, politics and pettiness. [The four justices] are interested in toppling the chief." Statement of Justice Ann Walsh Bradley, printed in, Segall, supra, at 1A, 5A. Indeed.

¶6 At that time, then-Chief Justice Shirley Abrahamson said, "I would never vote to diminish the powers granted to the chief justice by the constitution." Statement of Chief Justice Shirley S. Abrahamson, printed in, Cary Segall, Four Tried to Reduce Powers of Chief Justice: Bablitch and Three Others Sought a Rule Transferring Authority to Handle Many Administrative Matters, Wis. State J., Feb. 13, 1999, at 3A. While the method of selecting the chief justice has changed, the constitutionally conferred powers of the chief justice have not. They remain the same as they were 26 years ago. The majority has no power to amend the Wisconsin Constitution, but it aimed to re-write Article VII, Section 4 of the Wisconsin Constitution as follows: "The ~~chief justice~~ administrative committee of the supreme court shall be the administrative head of the judicial system and shall exercise this administrative authority pursuant to procedures adopted by the supreme court." This court has the power to adopt procedures by which the chief justice shall exercise her authority as the administrative head, but this court has no power to place an extra-

constitutional body at the head of the judicial branch. The power to adopt procedures is not the power to administer. This serious constitutional issue received no consideration by the new majority in 2023.

¶7 Longstanding practice confirms the unconstitutionality of the majority's actions. The People made their will known in 1977 by amending Article VII, Section 4 of the Wisconsin Constitution to vest the chief justice alone with administrative authority. In the nearly 50 years since, nothing like the majority's coup had been effectuated. The members of the majority defied the will of the people, making themselves supreme over the people they were supposed to serve. The majority's machinations purported to make several changes to this court's procedures, but they were as illegitimate as the "administrative committee" they professed to establish. Because the majority lacked the constitutional authority to decree those changes in 2023, they were without effect and wholly unenforceable. Rules of judicial administration that may be manipulated at whim, for the purpose of exercising political power, are no rules at all. I do not recognize them as binding.[5] No one else should either.

[5] Even if the majority's revised IOPs comported with the Wisconsin Constitution, the IOPs explicitly acknowledge they "are not rules. They do not purport to limit or describe in binding fashion the powers or duties of any Supreme Court personnel." Wis. S. Ct. IOP Introduction (June 28, 2024).