

Rule 1736. Exemption from Security.

(a) *General rule.*—No security shall be required of:

(1) The Commonwealth or any officer thereof, acting in his official capacity.

(2) Any political subdivision or any officer thereof, acting in his official capacity, except in any case in which a common pleas court has affirmed an arbitration award in a grievance or similar personnel matter.

(3) A party acting in a representative capacity.

(4) A taxpayer appealing from a judgment entered in favor of the Commonwealth upon an account duly settled when security has already been given as required by law.

(5) An appellant who has already filed security in a lower court, conditioned as prescribed by these rules for the final outcome of the appeal.

(b) *Supersedeas automatic.*—Unless otherwise ordered pursuant to this chapter the taking of an appeal by any party specified in Subdivision (a) of this rule shall operate as a *supersedeas* in favor of such party, **which supersedeas shall continue through any proceedings in the United States Supreme Court.**

Official Note: This rule is self-executing, and a party entitled to its benefits is not required to bring the exemption to the attention of the court under Rule 1732 (application for stay or injunction pending appeal). However, the appellee may apply under Rule 1732 for elimination or other modification of the automatic *supersedeas* or under Rule 1737 (objections to security) for an order requiring security as a condition to the continuance of the stay, or for relief under any other applicable provision of this chapter.

The 1987 amendment eliminates the automatic *supersedeas* for political subdivisions on appeals from the common pleas court where that court has affirmed an arbitration award in a grievance or similar personnel matter.

The definition of “Appeal” in Pa.R.A.P. 102 does not reference proceedings in the United States Supreme Court. Rule 102 further defines “Determination” as “Action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise. ...” While the word “otherwise” could be read broadly to include the United States Supreme Court, the more specific reference to the Pennsylvania Constitution as limiting the scope of the term suggests that the Federal Courts are not part of the definition when “court” is used in the Rules. In light of this ambiguity, the Rule has been amended to make clear that the automatic *supersedeas* in subsection (b) continues through any proceedings in the United States Supreme Court.