



# NEWS RELEASE

Arizona Supreme Court - Administrative Office of the Courts

## FOR IMMEDIATE RELEASE

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## **Attorney Ethics Advisory Committee Established**

Phoenix - As provided for in recently-adopted Arizona Supreme Court Rule 42.1, Arizona Supreme Court Chief Justice Scott Bales issued Administrative Order 2018-110, establishing an attorney ethics advisory committee. The committee is the result of the work of the Supreme Court's Task Force on Lawyer Ethics, Professionalism, and the Unauthorized Practice of Law, that began its work in 2016. The committee will begin its functions effective January 1, 2019.

The Attorney Ethics Advisory Committee is like the Judicial Ethics Advisory Committee that has been in place for judicial officers since 1976. The committee will issue formal opinions on issues of ethics, professionalism, and the unauthorized practice of law. Like the existing advisory committee for judicial officers, the committee for attorneys will be a Supreme Court committee with its members appointed by the Chief Justice. In addition to receiving questions from attorneys about their own conduct, the committee can receive requests from any person to address whether the person's proposed conduct would be considered the unauthorized practice of law.

The committee can address questions referred to it by the Supreme Court or the State Bar, and the committee can choose to address ethics, professionalism, and unauthorized practice of law issues trending around the country. The committee's authority includes filing petitions to amend the Arizona Rules of Professional Conduct and to recommend appropriate subjects for continuing education to the State Bar.

The Attorney Ethics Advisory Committee will post its opinions publicly as drafts, subject to comments from the public and from attorneys who would be affected by the proposed opinions. After taking public comments, similar to the process for modifying court rules, the committee may revise its opinion, leave it unaltered, or withdraw it. The Supreme Court may then take

action that includes declining to review the opinion, approving the opinion, ordering that the opinion not be posted or distributed, modifying the opinion, or directing the Committee to make specific changes or to reconsider certain issues. The rule allows any person to request reconsideration of a final opinion within 30 days after its posting on the Supreme Court's website.

Like the effect of a judicial ethics advisory opinion for judicial officers, an attorney who relies on a final committee opinion may raise that reliance as a defense in a disciplinary proceeding. While the State Bar's ethics committee effectively performed the role of providing opinions in the past, it lacked the authority to make its opinions binding. As a result, they could not reliably be used as a defense in a disciplinary proceeding. A significant change with the new committee is that the opinions will have binding court authority.

Although the court rule requires the committee to include at least nine members, the initial committee consists of fifteen. Committee members must be members of the State Bar of Arizona, selected from a variety of practice areas, settings, and geographic locations. Members will serve three-year staggered terms. Because much of the committee's work depends on submissions received, they will meet at the discretion of the committee's chair, Judge Paul McMurdie of the Arizona Court of Appeals, Division One.

For the full text of Supreme Court Rule 42.1, effective January 1, 2019, see

<https://www.azcourts.gov/DesktopModules/ActiveForums/viewer.aspx?portalid=0&moduleid=23621&attachmentid=6424>.

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