

RULE 82. RULES OF THE SUPREME COURT JUDICIAL ETHICS ADVISORY COMMITTEE

As Amended January 20, 2006

(a) Membership. The Chief Justice shall appoint a Judicial Ethics Advisory Committee of the Supreme Court (referred to in the rule as the "advisory committee") consisting of nine members. At least one member shall be from the public. Of the judicial members, at least one member shall be appointed from the Court of Appeals; at least one member shall be appointed from the Superior Court; one member shall be appointed from the Municipal Courts; one member shall be appointed from the Justice of the Peace Courts; and one member shall be a designee of the Administrative Director. Members shall serve three-year terms; terms shall be staggered as designated by the Chief Justice; and no member except the designee of the Administrative Director shall serve for more than two consecutive terms. Members shall continue to serve until a successor is appointed, and appointments to fill a vacancy shall be for the balance of the term vacated.

(b) Powers and Duties. The advisory committee so established shall have authority to:

(1) render advisory opinions on proper judicial conduct with respect to the provisions of the Code of Judicial Conduct, any financial reporting requirements, or any other requirement of law applicable to judges or candidates for judicial office provided that an opinion should not be requested and shall not be issued on a matter known to be pending before a court or before the Commission on Judicial Conduct;

(2) render opinions on proper employee conduct with respect to the provisions of the Code of Conduct for Judicial Employees;

(3) make recommendations to the Supreme Court for amendment of the Code of Judicial Conduct or these rules; and

(4) make recommendations regarding appropriate subjects for judicial education programs.

(c) Administration. The advisory committee shall be administered under the direction of a chairperson appointed by the Chief Justice, and assisted, as appropriate, by the staff of the Administrative Office of the Courts and the staff of the Commission on Judicial Conduct.

(1) The chairperson is authorized to appoint a vice-chairperson from the members of the advisory committee, to call meetings as needed, and to otherwise coordinate the work of the advisory committee.

(2) Upon agreement by the Commission on Judicial Conduct, the advisory committee's office shall be located at the same address as the Commission on Judicial Conduct and Commission staff shall be available to answer questions concerning advisory committee procedures, to receive and process opinion requests, to maintain committee records, and to provide other staff assistance as appropriate.

All communications with staff concerning requests for advisory opinions shall be confidential, and members of the Commission may not serve on the advisory committee during their tenure on the Commission.

(3) The Administrative Office of the Courts shall distribute the formal opinions of the advisory committee until the advisory committee or the Commission on Judicial Conduct is funded for this purpose, and shall provide other staff assistance as appropriate.

(d) Opinion Requests. Advisory opinions may be requested by a judge or candidate for judicial office, by a court, by an agency charged with judicial administration, by a judicial employee, or by any member of the advisory committee. Requests for formal advisory opinions shall be submitted in writing at the committee's office or to any committee member and should be accompanied by a letter or memorandum describing the facts and discussing the issues presented in the request. Each request for a formal opinion shall be assigned a number when received, and copies of requests shall be forwarded to all committee members. The identity, organizational affiliation, and geographic location of persons requesting opinions shall be confidential. Requests for informal advisory opinions may be submitted in writing to the committee's office or communicated in person or by telephone to any member of the committee or its staff.

(e) Consideration of Requests. The chairperson of the advisory committee shall determine whether a request for an opinion should be resolved formally with a written, published opinion or informally by letter or other communication. Formal opinions shall be decided by a majority vote of the advisory committee. Informal opinions may be assigned to any member of the advisory committee or its staff to discuss and resolve directly with the person or organization requesting the opinion. The advisory committee may confer in person or by telephone as often as needed to conduct committee business and resolve pending requests.

(f) Opinion Distribution. Immediately upon approval, the advisory committee's formal opinion shall be initially distributed to the requester, the justices, clerk and chief staff attorney of the supreme court, the chief judges of the court of appeals, the presiding judges of the superior court, the director of the Administrative Office of the Courts, and the chief bar counsel to the Arizona State Bar. Formal opinions shall be accumulated and distributed to all other judges at least annually. Records of advisory committee determinations and opinions shall be maintained at the committee's office.

(g) Reconsideration. Within thirty days after the distribution of a formal opinion to all judges, any person, court or agency authorized to request an opinion under this rule may petition the advisory committee to reconsider the opinion by submitting a request for reconsideration to the advisory committee's office in the form of a letter or memorandum explaining the basis for the request. The advisory committee shall respond to the request by either reaffirming or revising the formal opinion. If warranted, the advisory committee or the supreme court may also reconsider an opinion at any time on its own motion. Revised opinions shall be distributed in the same manner as original opinions.

(h) Opinion as Defense. Reliance on a formal advisory opinion may be raised as a defense in any disciplinary proceeding.