



**STATE BAR OF ARIZONA
COMMITTEE ON THE RULES OF PROFESSIONAL CONDUCT**

PROCEDURAL GUIDELINES

The Committee on the Rules of Professional Conduct of the State Bar of Arizona shall be governed by the following procedural guidelines:

1. Preliminary Action of Chair. The Chair or Ethics Counsel shall, before assigning an inquiry to a member of the Committee for the preparation of a proposed opinion, examine the inquiry and ascertain whether it clearly presents a question within the jurisdiction of the Committee as set forth in its Statement of Jurisdictional Policies. If the Chair or Ethics Counsel so determine that the question is outside the Committee's jurisdiction, the inquiring individual shall be notified, and no further Committee action shall be taken thereon. Should an inquiry involve multiple questions, some within and some outside the Committee's jurisdiction, the draft proposed opinion shall only address questions within the Committee's jurisdiction.
2. Chair's Prerogative in Opinion Assignments. The Chair and Ethics Counsel shall have broad discretion in the assignment of inquiries to members of the Committee for the preparation of draft opinions so as to utilize to the maximum extent the acquired experience and expertise of particular members. The Chair and Ethics Counsel shall, nevertheless, endeavor to equalize the workload of opinion preparation among the various members of the Committee.
3. Preservation of Anonymity. In the drafting of Committee opinions, the members shall exercise care so as to preserve, so far as possible, the anonymity of the inquiring attorney and of all other persons referenced in the facts submitted.
4. Initial Determination of Formal or Informal Response. The Chair of the Committee or Ethics Counsel shall review requests for opinions and determine whether the request should be answered as an informal or formal opinion based upon whether the request presents an issue either of general interest to the bar or of unusual importance. Once a request is assigned to a member, the member shall advise the State Bar offices within forty-eight hours of receipt of a request if he or she cannot respond to the request in a timely manner.

5. Informal Opinions. A member should respond to a request for an informal opinion within sixty days of receipt. Such responses should indicate that: 1) informal opinions are the opinion of one member of the Committee and are not reviewed by the whole Committee; 2) informal opinions are not binding in any disciplinary or court proceeding; and 3) informal opinions are intended only for the personal review of the inquiring attorney.

6. Formal Opinions-Response Time. Formal opinions should be drafted and sent to the Ethics Counsel for dissemination to the members of the Committee within sixty days of receipt of the assignment unless the Chair provides otherwise. The draft formal opinion shall be sent to the inquiring attorney as an informal opinion.

7. Dissents to Draft Opinions. Upon mailing of the draft formal opinion to members of the Committee, members shall have fifteen days from the date of mailing to send written (letter or fax) comments or dissents to the opinion to the attention of the Ethics Counsel. If less than two dissents or requests for Committee discussion are received, the opinion will become the formal opinion of the Committee. If two or more dissents or requests for Committee discussion are received by the Ethics Counsel within the fifteen days, the opinion will be reviewed by the Committee at the next-scheduled Committee meeting. Once an opinion is discussed at a Committee meeting, a majority of the Committee members present at that meeting or a subsequent meeting must concur with the opinion for it to be issued as a formal opinion of the Committee.

8. Quorum. There must be thirteen Committee members who are eligible to vote in attendance at a meeting to constitute a quorum. No Committee actions may occur without a quorum present except that the Chair has the discretion to carry-over any agenda item to the next meeting.

9. Procedure on Revision of Opinions. Where the dissents or other comments by members of the Committee result in a substantive change in the draft opinion, the revised opinion shall again be circulated to the members of the Committee and placed on the next Committee agenda. If the proposed changes do not substantively modify the opinion, they may be made by the drafting member, Ethics Counsel or the Chair without circulation of the complete revised opinion to all the members in the discretion of the Chair, provided that a majority of the Committee has previously approved the opinion pursuant to paragraph 7.

10. Reconsideration of Published Opinion. The Committee shall address requests for reconsideration of a published formal opinion in accordance with the procedures set forth in the Committee's Statement of Jurisdictional Policies.

11. Abstaining Member. If the inquiring attorney is a member of the Committee, or if some other member desires to disqualify herself or himself from participation in the consideration and rendition of the opinion, the minutes from that meeting shall contain an appropriate concluding clause noting such disqualification. In such cases, upon release of the Opinion, the Ethics Counsel shall furnish a copy thereof to such a disqualified member

(if he or she is not the inquiring attorney) as well as furnishing the usual copies to the inquiring attorney.

12. Distribution of Copies of Formal Opinions. In releasing a formal opinion of the Committee, the Ethics Counsel shall furnish one copy thereof to: a) the inquiring attorney (or to each inquiring attorney, if more than one); b) the ethics opinion subscribers; and c) the State Bar website for inclusion in the on-line opinions.

13. Numbering and Dating of Formal Opinions. Effective on and after January 1, 1970, the Chair shall, in releasing each opinion of the Committee, assign to it a number, in consecutive order, consisting of the year designation and the opinion number for that year, e.g., 70-1, 70-2, etc. In addition, the Chair shall show, on each copy of the opinion released, the date of its release and any written dissents.

14. Records of the Committee. The Special Services Department of the State Bar of Arizona is charged with maintaining the original files and dockets for the Committee. Accordingly, the Ethics Counsel must receive a copy of all responses to requests for an opinion and any other correspondence regarding Committee matters.

15. Time Periods. Time periods stated in these procedures are directory, not jurisdictional. Failure to comply with prescribed time intervals may result in reassignment of a request but will not abate review. Requests that note some urgent need for review shall be considered by the Chair for expedited review. Upon a determination that expedited review is necessary, the Chair shall so request that the responding member accelerate the repose time, if possible.

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