

Supreme Judicial Court Rule 3:11: Committee on Judicial Ethics

(1)- Structure. There shall be a Committee on Judicial Ethics (Committee) ~~consisting to render opinions concerning the Code of Judicial Conduct, S. J. C. Rule 3:09. The Committee shall consist~~ of five persons appointed by this court, ~~at least three. The members of whom the Committee shall be~~ include four active or retired judges or former judges and one member of the bar. No Justice currently serving on this court shall be a member of the Committee. This court shall designate one member as Chairperson and one court employee to serve as the staff counsel to the Committee.

Committee members shall be appointed to three-year terms, but the length of a member's initial term may be shorter to create staggered terms among the members. Members may be reappointed to the Committee, but no member shall be appointed to more than two successive full terms. The members of the Committee shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their official duties. A member whose term has expired shall remain on the Committee pending appointment of his or her successor, and until the successor's term begins.

~~When the Committee is first selected, the members shall be appointed respectively to five, four, three, two and one year terms. On the expiration of the term of office of a member, a successor shall be appointed for a term of five years. Members may be reappointed to the Committee, but no member shall be appointed to more than two successive full terms.~~

(2)- General Provisions

A. ~~The Committee shall render advisory opinions and may provide informal advice~~ Informal Opinions and Letter Opinions with respect to the interpretation of rules of court relating to the ethical and professional the Code of Judicial Conduct. The Committee shall provide opinions with respect to conduct of contemplated by judges. ~~Except for emergency, but shall not render opinions, the opinions of the on~~ hypothetical questions, questions relating solely to past conduct, questions relating to the conduct of persons other than the requestor, or on issues pending before a court, agency, or commission, including the Commission on Judicial Conduct. The Committee may decline to render an opinion for any reasons that it deems sufficient. The Committee may also issue Emergency Opinions to offer guidance to judges faced unexpectedly with questions within the Committee's jurisdiction that require an immediate response.

B. Who May Request. A request for an Informal Opinion, a Letter Opinion, or an Emergency Opinion may be made by a judge, a person who has been nominated to be a judge, or a former judge to whom provisions of the Code of Judicial Conduct apply.

C. Confidentiality. All requests for advice made under this rule, and all of the Committee's proceedings thereon, shall be strictly confidential unless disclosure is required by the Supreme Judicial Court or the Committee determines that disclosure is necessary to prevent or remedy a serious injury to person, property or the administration of justice. Published Informal and Letter Opinions shall be in writing and shall be rendered not include the name of the judge requesting the opinion and any other identifying information without the judge's consent.

Formatted: Font: +Body (Calibri), 11 pt, Not Bold, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Not Bold, Font color: Auto

Formatted: None, Space Before: 0 pt, After: 10 pt, Line spacing: Multiple 1.15 li

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Space After: 10 pt, Line spacing: Multiple 1.15 li

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Not Bold, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

(3) Informal Opinions, Letter Opinions, and Emergency Opinions.

A. Informal Opinions. A judge may request an Informal Opinion by making an oral or written request to staff counsel. Upon making a request for informal advice, the requesting judge shall be told that in contrast to a Letter Opinion, an Informal Opinion does not carry with it the protection from discipline described in paragraph (3)B. However, a judge's reliance on an Informal Opinion would be considered as a mitigating factor in any disciplinary proceeding, so long as the judge did not omit or misstate any material fact in the request for an opinion.. The Committee may provide an Informal Opinion if the answer to the judge's request may be found in a previously published Informal or Letter Opinion or an Ethics Advisory or is otherwise reasonably clear. The Informal Opinion may be given orally or in writing. If the Committee determines that the answer is unclear, the Committee shall inform the requestor, and indicate that the Committee will act only in response to a written request, signed by the judge requesting the opinion for a Letter Opinion. The Committee may publish an Informal Opinion if the Committee concludes that the advice contained in the Informal Opinion will be useful to other judges, but shall redact the name of the judge and any other identifying information unless the judge has consented to its inclusion.

B. Letter Opinions. A judge may request a Letter Opinion by making a written request to staff counsel. The written request shall set forth fully all facts bearing on the question or questions on which the judge requests advice. The Committee shall not render opinions on hypothetical questions or on issues pending before a court, agency, or commission, including the Judicial Conduct Commission. The Committee may decline to render an opinion for any reasons which it deems sufficient.

(3) Each written opinion seeks advice. A Letter Opinion requires agreement among a majority of the Committee. Each Letter Opinion shall contain a statement of the facts and a discussion of the application of the relevant rules to the facts. The Committee may publish its opinions but the name of the judge requesting the opinion and any other identifying information shall not be included in a published opinion unless the judge consents to such inclusion. If the judge did not omit or misstate any material fact in his the request for an opinion, the judge may rely on a written opinion Letter Opinion until and unless revised or revoked. This court A judge shall not subject a judge to discipline where the be disciplined for conduct of the judge at issue in a proceeding was undertaken in reasonable reliance on a Letter Opinion issued to that opinion. Informal advice provided by the judge pursuant to this rule. The Committee shall publish Letter Opinions, but shall not provide the protection from discipline described in this section. redact the name of the judge and any other identifying information unless the judge has consented to its inclusion.

(4) This court shall designate one of the members of the Committee as Chairperson and another as Vice Chairperson. A quorum of the Committee shall consist of three members. The Committee may render written opinions only by an affirmative vote of at least three members. By rule the Committee may delegate particular types of matters, including the issuance of oral opinions on emergency matters, to a lesser number of members or to the secretary to the Committee. This court shall designate one of its employees to serve as the secretary and principal administrative officer of the Committee.

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Space After: 10 pt, Line spacing: Multiple 1.15 li

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

Formatted: Font: +Body (Calibri), 11 pt, Font color: Auto

C. Emergency Letter Opinions. Where a judge seeks the protection of a Letter Opinion but is faced unexpectedly with questions within the committee's jurisdiction that require an immediate response, staff counsel with the approval of at least two members of the Committee may give advice on an emergency basis. Whenever possible, the request for advice shall be in writing. The emergency advice will be given orally or in writing, as seems appropriate. Emergency advice shall be submitted to the full Committee for action. If the Committee agrees with the advice given, it will issue a confirming Letter Opinion to the requestor. If it disagrees, it will issue a Letter Opinion to the requestor setting forth the emergency advice that was given so that the judge will have the benefit of the protection of a Letter Opinion given by this rule as to conduct undertaken in reliance on that advice, but it will also set forth the view of the full Committee on the issue presented. A Letter Opinion will supersede all inconsistent emergency advice.

(4) Ethics Advisories. The Justices of the Supreme Judicial Court may from time to time issue an Ethics Advisory to clarify the meaning and application of any provision of the Code of Judicial Conduct, and to expound upon provisions of the Code that are of broad interest and application. An Ethics Advisory may be requested by any judge, lawyer, or group of judges or lawyers, including the Massachusetts Judges Conference and bar associations. A person requesting an Ethics Advisory may pose questions related to past or hypothetical conduct. The court may decline to render an Ethics Advisory for any reasons that it deems sufficient. An Ethics Advisory supersedes all inconsistent Informal Opinions and Letter Opinions, but a judge shall not be disciplined for conduct undertaken in reasonable reliance on a Letter Opinion issued to that judge before the issuance and publication of an Ethics Advisory.

(5) Other Duties. The Committee shall ~~make rules~~ adopt Rules of the Committee as necessary, subject to the approval of this court, ~~implementing to implement~~ this rule. ~~In January of each~~ Each year, the Committee shall submit to the court a report of its activities, together with any recommendations.

(6) ~~Except to the extent the Committee elects to publish an opinion in the manner prescribed in paragraph (3), all requests for advice made to the committee under this rule, and all of the committee's proceedings thereon, shall be strictly confidential unless disclosure is required by court order or unless the Committee determines by majority vote of all members that disclosure is necessary to prevent or remedy a serious injury to person, property or the administration of justice. To facilitate transitions in Committee membership, the court may invite a newly appointed member whose term has not officially begun to observe Committee business for a period not to exceed three months prior to the commencement of the member's term. A member whose term has expired shall remain on the Committee pending appointment of his or her successor, and until the successor's term begins.~~

for amendments to the Code of Conduct or the Committee's rules.

**Formatted:** Font: +Body (Calibri), 11 pt, Not Bold, Font color: Auto

**Formatted:** Font: +Body (Calibri), 11 pt, Font color: Auto

**Formatted:** Font: +Body (Calibri), 11 pt, Font color: Auto

**Formatted:** Font: +Body (Calibri), 11 pt, Font color: Auto

**Formatted:** Font: +Body (Calibri), 11 pt, Font color: Auto