



# Boston Bar

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Senior Attorney Barbara Berenson  
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**Re: Comments on the Proposed Amendments to Rule 3:11 of  
the Rules of the Supreme Judicial Court**

Dear Attorney Berenson,

On behalf of the Boston Bar Association (BBA), we thank you for the opportunity to comment on the proposed amendments to Rule 3:11 of the Rules of the Supreme Judicial Court (SJC) and recognize the efforts put forth by the SJC Rules Committee in drafting this rule.

The BBA Council discussed this proposed revised rule and is pleased to see these amendments giving the SJC the ability to clarify the meaning and application of Code of Judicial Conduct provisions and giving lawyers and judges the ability to request Ethics Advisory opinions.

Given the complexity of the Code of Judicial Conduct (CJC) and the many ethical challenges judges face, we believe that adding another layer of review and one accessible by members of the bench and bar alike will help to assure that those standards are clear and uniformly understood. The proposed amended rule would also encourage judges to seek advisory opinions, knowing that they will have more than one opportunity for review.

The BBA notes that the rule does not currently include instructions on the procedure for requesting an Informal Opinion, Letter Opinion, or Ethics Advisory. We understand that the Rules Committee is considering adding more detailed instructions on this point and we look forward to their inclusion.

In addition, the BBA is pleased to see that the proposed revised rule adds a means for ethical review on hypothetical issues through SJC Ethics Advisories. However, the BBA notes that the proposed revised rule limits hypothetical reviews to the SJC, explicitly barring the Committee on Judicial Ethics (CJE) from issuing Informal or Letter Opinions on “hypothetical questions” or on “issues pending before a court.” The proposed revised rule does not explicitly state whether the SJC can issue Advisories on issues currently pending before a court. There may be utility in clarifying the rule on this point and also in permitting the CJE to render opinions in both hypothetical and currently pending circumstances in order to make sure judges and the bar know when and how they can request guidance in order to assure the most just results. Thank you for providing members of the bar with an opportunity to weigh in on this important issue, and please feel free to contact me should you have any questions or concerns.

Very truly yours,

A handwritten signature in blue ink that reads "Lisa G. Arrowood". The signature is written in a cursive, flowing style.

Lisa G. Arrowood  
President