

RULE 1:19. Advisory Committee On Professional Ethics

1:19-1. Appointment and Organization

The Supreme Court shall appoint an Advisory Committee on Professional Ethics consisting of fifteen members of the bar and three lay members. Members shall serve for terms of three years with the terms of six such members expiring each year. No member who has served four full three-year terms shall be eligible for immediate reappointment. A vacancy occurring during a term shall be filled for the unexpired portion thereof. The Court shall annually designate a member of the committee to serve as Chairperson and another member to serve as Vice Chairperson. The Administrative Director of the Courts shall serve as secretary of the committee.

Note: Source-R.R. 1:26A(a). Amended June 29, 1990 to be effective September 4, 1990; amended November 7, 2005 to be effective immediately.

1:19-2. Jurisdiction

The committee shall accept inquiries only from the state bar association, from any county or local bar association, or from any member of the New Jersey bar, concerning proper conduct for a member of the legal profession under the Rules of Professional Conduct of the American Bar Association as amended by the Supreme Court (except for inquiries relating to advertisements and other communications arising under Rules of Professional Conduct 7.1 through 7.5, exclusive of 7.3(c), (d), (e) and (f)) and other Rules of this Court governing the practice of attorneys. It shall not consider an inquiry involving a pending action where its opinion might affect the interests of the parties, and it may decline to accept any inquiry without stating its reasons therefor.

Note: Source-R.R. 1:26A(b) (first sentence), (c) (third sentence), (d); amended April 4, 1977, effective immediately; first sentence amended June 26, 1987 to be effective July 1, 1987.

1:19-3. Form of Inquiry

All inquiries shall be addressed to the secretary who shall transmit them to the committee. They shall be in writing, shall set out the factual situation in detail, shall be accompanied by a short brief or memorandum citing the rules of court or canons of ethics involved and any other pertinent authorities, and shall contain a certificate that any opinion of the committee will not affect the interests of the parties to any pending action.

Note: Source-R.R. 1:26A(b) (second and third sentences).

1:19-4. Disposition of Inquiries

The committee may act through parts consisting of not fewer than six members, but if the opinion of any such part is not unanimous the inquiry shall be referred to the committee as a whole. No opinion shall be given by the committee as a whole unless concurred in by eleven members thereof. The opinion of the committee on any inquiry accepted for consideration shall be in writing and shall be filed with the secretary, who shall transmit a copy to the person making the inquiry and, where the committee so requests, make suitable arrangements for its publication. Published opinions shall not,

insofar as practicable, identify the party or parties making the inquiry. The committee, in its discretion, may conduct a hearing on any inquiry.

Note: Source-R.R. 1:26A(c) (first, second and fourth sentences), (e). Amended June 29, 1990 to be effective September 4, 1990.

1:19-5. Inquiries From Supreme Court

The committee as a whole shall consider and render opinions on such matters as the Supreme Court may from time to time submit to it. Such opinions shall not be published without prior approval of the court.

Note: Source-R.R. 1:26A(f).

1:19-6. Effect of Published Opinions

Published opinions of the committee shall be binding upon the Ethics Committee in their disposition of all matters.

1:19-7. Procedure

The committee shall, subject to the approval of the Supreme Court, determine the methods and procedure to be followed in considering inquiries and expressing opinions.

Note: Source-R.R. 1:26A(g).

1:19-8. Petitions for Review

(a) Notice. Within 20 days after an opinion is published, or within 30 days after any final action of the Advisory Committee on Professional Ethics other than the publication of an opinion, any aggrieved member of the bar, bar association or ethics committee may seek review thereof by serving on the Attorney General a notice of petition for review by the Supreme Court and by filing the original notice with the Clerk of the Supreme Court. The notice shall set forth the petitioner's name and address and the name and address of counsel, if any. The notice shall designate the action of the Advisory Committee on Professional Ethics sought to be reviewed and shall concisely state the manner in which the petitioner is aggrieved.

(b) Deposit for Costs. Deposit for costs shall be made in accordance with R. 2:12-5.

(c) Record on Petition for Review. If the petition for review is granted, the record on review shall be the formal opinion, if any, issued pursuant to R. 1:19-4 or R. 1:19-5, the inquiry, brief or memorandum submitted, and any documents or other evidence or proof relied upon by the Advisory Committee on Professional Ethics in arriving at its determination.

(d) Form of Petition for Review. A petition for review shall be in the form of a brief, conforming to the applicable provisions of R. 2:6 and not exceeding 15 pages if printed or 20 pages if otherwise reproduced or typed, exclusive of tables of contents, citations and appendix. It shall contain a short statement of the matter involved, the question presented, the errors complained of and the arguments in support of the

petitioner's position. It shall also contain a certification by the petitioner or counsel, if any, that the petition presents a substantial question and is filed in good faith and not for purposes of delay.

(e) Service and Filing of Petition for Review. Within 10 days after filing of the notice of petition for review, 2 copies of the petition shall be served on the Attorney General and the Secretary of the Advisory Committee on Professional Ethics and 9 copies thereof shall be filed with the Clerk of the Supreme Court.

(f) Response to Petition for Review. The Attorney General shall, within 30 days of the service of the petition, serve 2 copies of a brief in opposition to the petition and file 9 copies thereof with the Clerk of the Supreme Court. The brief shall be direct and concise, shall conform to the applicable provisions of R. 2:6 and shall not exceed 15 pages if printed or 20 pages if otherwise reproduced or typed, exclusive of table of contents, citations and appendix. Within 10 days of such service, petitioner may serve 2 copies and file 9 copies of a reply brief not exceeding 9 pages if printed or 10 pages if otherwise reproduced or typed, exclusive of tables of contents, citations or appendix.

(g) Final Determination. The final determination of a petition for review may be either by written opinion or by order of the Supreme Court and shall state whether the opinion or other action of the Advisory Committee on Professional Ethics is affirmed, reversed or modified or shall provide for such other final disposition as is appropriate.

Note: Adopted April 4, 1977 to be effective immediately; paragraphs (a) and (f) amended July 13, 1994 to be effective September 1, 1994.

1:19-9. Ethics Telephone Research Service

(a) Generally. The Advisory Committee on Professional Ethics shall operate a telephone ethics hotline to provide, with respect to issues of legal ethics within its jurisdiction, and issues of advertising and solicitation within the jurisdiction of the Committee on Attorney Advertising, general information and research assistance, but not legal advice or advisory opinions, to members of the bar of this state in good standing. The existence and limited nature of this ethics telephone research service shall be advertised regularly as a notice to the bar in the official publication designed by the Supreme Court. Staff shall assist attorneys requesting information to the extent that time and resources permit and to render general assistance and information to an inquiring attorney.

(b) Form of Inquiry and Certification. An attorney requesting information and research assistance on issues of legal ethics may communicate with the Ethics Research Assistance Service either by phone or in writing. At the time the initial inquiry is made, the attorney shall provide identification as a qualified member of the bar, shall certify that the facts presented concern his or her prospective ethical conduct and shall certify that the inquirer is not the subject of a disciplinary grievance or proceeding. The inquirer shall provide in good faith all material facts bearing on the ethical issue presented. Where the inquiry would require resolution of questions concerning substantive law, the inquiry shall be declined.

(c) Disclaimer. Before rendering assistance to an inquirer, the Ethics Research Assistance Service staff shall advise each inquirer that (1) only legal research assistance is being furnished and no legal opinion is being rendered and (2) the

inquirer is responsible for making his or her own final judgment on the ethical issue presented.

(d) Inadmissibility of Inquiry Results. Neither the fact that an inquiry has been made nor the results thereof, shall be admissible in any legal proceeding, including an attorney or judicial discipline proceeding.

(e) Records; Disclosure. The Ethics Research Assistance Service shall keep records of the number of inquiries and the nature and type of inquiries, but shall not reveal the name of the inquirer, the substance of a specific inquiry, or the specific response thereto. All information provided to, and all records maintained by, the Ethics Research Assistance Service shall be confidential and shall not be disclosed, except as authorized by the Supreme Court. All such information shall be immune from subpoena in any civil, disciplinary or administrative matter.

Note: Adopted January 31, 1995 to be effective March 1, 1995; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (a) amended October 9, 2007, to be effective immediately; paragraph (a) amended April 2, 2019 to be effective immediately.