



Standing Committee on Ethics and Professional Responsibility
Rules of Procedure
Effective 1-1-21

I. Purpose

The Standing Committee on Ethics and Professional Responsibility (Standing Committee) is established under Supreme Court Rule 222 to issue advisory opinions concerning the ethical and professional standards of practicing law.

II. Requests for Advisory Opinion

- A. Requests for advisory opinions shall be submitted to the Standing Committee through its Chair.
- B. Requests may be made by members of the legal profession, the public, or the Board of Governors.
- C. Requests shall be presented to the Standing Committee Chair by mail, email, or through the State Bar's website.
- D. Requests must present one or more ethical issues and questions using hypothetical facts and parties.

III. Analysis and Screening

- A. The Standing Committee Chair has authority to determine whether a request for an opinion should be placed before the Standing Committee for review and consideration. Alternatively, the Chair may appoint one or more Standing Committee members to review requests and make recommendations to the Chair for consideration.
- B. Supreme Court Rule 225 outlines the circumstances under which the Standing Committee acts or refrains from acting upon requests.
- C. The Standing Committee Chair or designee shall communicate the decision to accept or reject a request for an advisory opinion with the requestor.

IV. Acceptance of a Request for Review

- A. The Standing Committee Chair shall assign up to three Standing Committee members to review and draft a proposed opinion. Additional members may be added if the complexity of the ethical issue(s) presented requires more members.
- B. The Standing Committee Chair may assign committee members to form subcommittees to research specific ethical issues and case law.
- C. The Standing Committee Chair shall establish deadlines for completion of a proposed opinion and its review by other committee members. Such deadlines may be altered based

on the complexity of the legal issue(s) presented and/or the number of proposed opinions being processed at any given time.

- D. The Standing Committee Chair may seek the assistance of outside professionals or entities, law-related or otherwise, to assist Standing Committee members with unusual issues or those which might be beyond the expertise of the assigned committee members.
- E. Draft opinions shall be circulated to other Standing Committee members by mail or email for review.

V. Draft Advisory Opinions: Format and Standing Committee Review

- A. The draft opinion shall contain:
 - 1. Hypothetical facts of the ethical question(s) presented in a general manner without identification of the requesting attorney or any details of the request which would permit such identification.
 - 2. The Rules of Professional Conduct and other authorities relied upon;
 - 3. A discussion; and
 - 4. A conclusion.
- B. Draft opinions must be approved by at least five members of the Standing Committee prior to being made available for public comment.
- C. *Dissenting Opinions.* A Standing Committee member may elect to have notice of his or her dissent included with the opinion. In this event, the number of dissenters, but not their names, will be noted in the final opinion. In the rarest of cases, a dissenting opinion or opinions explaining the reasons for any dissent may be added to the opinion, in the discretion of the Standing Committee Chair. As with the opinion of the Standing Committee, the dissenting opinion will not be attributed to particular authors but will note on how many members' behalf the dissent is filed.

VI. Public Comment

- A. All draft opinions will be made available for public comment on the state bar's website and notice provided via e-News for no less than 30 days to allow for public comment or objections.
- B. At the end of the public comment period, all comments or objections received shall be distributed to Standing Committee members for consideration at a regular Standing Committee meeting. If the Standing Committee accepts changes to the advisory opinion which substantially or significantly affect the advisory opinion, the draft advisory opinion will be posted for another 30-day public comment period.

VII. Publication. All advisory opinions shall:

- A. Be filed with the Nevada Supreme Court; and
- B. Numbered and maintained with the state bar and made available on the state bar's website.

VIII. Confidentiality

- A. Supreme Court Rule 225 requires the Standing Committee to maintain the confidentiality of the person seeking an advisory opinion and all work product associated with an advisory opinion created prior to public comment and publication.
- B. The Standing Committee's deliberations are confidential. Draft opinions may not be circulated to parties outside the Standing Committee or to state bar staff until published for comment or objection.
- C. Standing Committee members shall direct inquiries from the public or attorneys regarding specific issues under consideration to the Chair.
- D. When requested, Standing Committee members may provide legal advice regarding ethics issues and discuss non-confidential aspects of committee business. Whenever appropriate, the committee member should specify that the advice is being given in a personal capacity and not on behalf of the Standing Committee.

IX. Administration

- A. *Frequency.* The Standing Committee shall hold a monthly meeting or as often as necessary to review all requests for advisory opinions.
- B. *Location.* Meetings may occur in person or via alternative telephonic and video formats.
- C. *Attendance.* Any Standing Committee member who fails to attend three consecutive meetings may, in the discretion of the Chair or Board of Governors, be deemed to have resigned.
- D. *Quorum.* A quorum consists of half the appointed Standing Committee members, plus one.
- E. *Voting.* Each Standing Committee member shall have a single vote. Action of the Standing Committee shall be a majority of the members present.
- F. *Conflicts.* Standing Committee members shall not participate in any matter in which they have either a material pecuniary interest that would be affected by a proposed advisory opinion or committee recommendation, or any other conflict of interest that should prevent them from participating. However, no action of the Standing Committee will be invalid

where full disclosure has been made and the Standing Committee has not decided that the member's participation was improper.

- G. *Notice.* The Standing Committee Chair shall give members of the Standing Committee not less than 15 days' notice of the time and place of each regular meeting and not less than five days' notice of any special meeting.
- H. *Minutes.* The Standing Committee Chair, or designee, shall prepare written minutes of each Standing Committee meeting. The state bar shall permanently maintain minutes in electronic format.
- I. *Designation of Alternate Chair.* If the Chair or Vice Chair is absent from any meeting, the Chair may designate another Standing Committee member to preside at the meeting.
- J. *Record Retention.* Requests for advisory opinions and the Standing Committee's response will be retained by the State Bar of Nevada for three years after the date the advisory opinion is published.
- K. *Rules of Procedure.* Standing Committee meetings shall be governed by Roberts Rules of Order.

X. Amendments

These Rules of Procedure may be amended at any time by a majority vote by members of the Standing Committee and approval by the Board of Governors.