

# **Procedural Rules for the Arkansas Judicial Ethics Advisory Committee**

## **Rule 1. Judicial ethics advisory committee — Organization.**

Pursuant to Section 5 of Act 791 of 1991 a Judicial Ethics Advisory Committee is hereby created to give advisory opinions to elected officials, judicial officers and candidates for judicial office seeking opinions concerning the compliance of an intended, future course of conduct with the Arkansas Code of Judicial Conduct. The Committee, appointed by the Judicial Discipline & Disability Commission, shall consist of no more than two retired justices or judges and one attorney who is a member of the Arkansas Bar and has never been a publicly elected judicial officer. Committee members may be reappointed and shall serve for three-year terms from date of appointment except that to achieve staggered terms, the first two appointed retired judges shall draw for which one shall serve for three years and which one shall serve for one year. The first appointed attorney shall serve for a two-year term. Vacancies on the committee for an unexpired term shall be filled for the remainder of the term. No member shall serve simultaneously on the Judicial Ethics Advisory Committee and the Judicial Discipline & Disability Commission. Members of the Committee shall be reimbursed their actual and necessary expenses incurred in the discharge of their official duties by the Judicial Discipline & Disability Commission. A chair shall be elected by the Committee members. The Committee may promulgate additional rules of procedure not inconsistent with these rules.

## **Rule 2. Eligibility for requesting advisory opinions and submissions.**

A request for a judicial ethics advisory opinion shall be directed to the Executive Director of the Judicial Discipline & Disability Commission, who shall forward the request to the committee. Requests will be accepted only from elected officials, judicial officials (justices or judges) and publicly declared candidates for judicial office.

## **Rule 3. Requests for advisory opinions — Contents.**

Requests for judicial ethics advisory opinions shall relate to prospective conduct only and shall contain a complete statement of all facts pertaining to the intended conduct together with a clear, concise question of judicial ethics. The identity of the individual, whose proposed conduct is the subject of the request, shall be disclosed to the Committee. The requesting individual shall include with the request a concise memorandum setting forth his or her own research and conclusions concerning the question and the statement that the matter is not the subject of a pending disciplinary proceeding. Requests shall not be accepted or referred for opinion unless accompanied by this memorandum.

## **Rule 4. Scope of and procedure for issuance of advisory opinions.**

Advisory opinions shall set forth the facts upon which the opinion is based. Advisory opinions shall address only whether an intended, future course of conduct violates the Arkansas Code of Judicial Conduct and shall provide an interpretation of this Code with regard to the factual situation presented. The opinion shall not address issues of law nor shall it address the ethical propriety of past or present conduct. The identity of the requesting person shall be disclosed in

the opinion. If the individual facts and circumstances provided are insufficient in detail to enable the Committee to render an advisory opinion, the Committee shall request supplementary information from the requesting individual to enable it to render such opinion. If such supplementary information is still insufficient or is not provided, the Committee shall so state and shall not render an advisory opinion based upon what it considers to be insufficient detail. The Committee may respond to requests for an advisory opinion by referring the requesting individual to a prior opinion and by so doing need not publish a new advisory opinion. Two members of the Committee shall constitute a quorum for the transaction of any Committee business, including the issuance of any advisory opinion, whether in a meeting or by conference call or by circulated writing.

### **Rule 5. Distribution and publication of advisory opinions.**

The Executive Director of the Judicial Discipline & Disability Commission shall provide a copy of each advisory opinion to the requesting party, the Chief Justice of the Supreme Court, the Judicial Discipline & Disability Commission, the Supreme Court library, the two law school libraries and the American Judicature Society. The Executive Director of the Judicial Discipline & Disability Commission shall keep the original opinion in a permanent file. Copies of the opinions will also be published in a publication generally available to judicial officials such as the Supreme Court advance sheets.

### **Rule 6. Binding effects of advisory opinions.**

All opinions shall be advisory in nature only. No opinion shall be binding on the Judicial Discipline & Disability Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. However, compliance by the requesting individual with a written advisory opinion of the Committee is evidence of a good faith effort to comply with the Arkansas Code of Judicial Conduct. An opinion given to a requesting individual in an oral conversation is not binding on the Committee nor evidence of a good faith effort to comply with the Arkansas Code of Judicial Conduct.