

Arizona Supreme Court No. R-21-0018
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TO:

Rule 28 Distribution
Mark D Wilson

ATTACHMENT¹

RULES OF THE SUPREME COURT OF ARIZONA

Rule 42.1. Attorney Ethics Advisory Committee

(a) **Membership.** The Chief Justice shall appoint an ~~Attorney~~ Ethics Advisory Committee of the Arizona Supreme Court (“the Committee”), which must consist of at least 9 members. Committee members must be members of the State Bar of Arizona (“the State Bar”), selected from a variety of practice areas, settings, and geographic locations. Members will serve three-year terms, which will be staggered among members as designated by the Chief Justice. Members may serve no more than two consecutive terms. Members may continue to serve until a successor is appointed, and appointments to fill a vacancy must be for the balance of the vacated term.

(b) **Powers and Duties.** The Committee may issue opinions on lawyer ethics, legal paraprofessional ethics, Alternative Business Structure ethics, professionalism, and the unauthorized practice of law.

1. The Committee may issue opinions:

A. on the request of a State Bar members, State Bar affiliate member, or the Compliance Lawyer of an Alternative Business Structure to address questions regarding the member’s own proposed conduct or the conduct of the Alternative Business Structure;

B. on the request of any person to address questions regarding whether the person’s proposed conduct would constitute the unauthorized practice of law;

C. on questions referred to it by the Supreme Court or the State Bar;

D. to address ~~court~~ opinions of the court or changes in the rules of ethics, professionalism, or unauthorized practice of law; or

E. on subjects of widespread interest to the State Bar, as identified by reviewing past State Bar advisory ethics opinions, other states’ ethics opinions, or scholarly literature regarding ethics, professionalism, or the unauthorized practice of law.

2. The Committee may file rule petitions with the Supreme Court recommending amendments to the Arizona Rules of Professional Conduct.

3. The Committee may make recommendations to the State Bar regarding appropriate subjects for continuing legal education programs.

¹ Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strikeouts~~.

(c) Proscribed Areas. The Committee may not provide informal advisory opinions, and may not issue opinions:

1. involving the ethical propriety of past conduct of a State Bar member, State Bar affiliate member, or an Alternative Business Structure;

2. on whether a non-lawyer's past conduct constituted the unauthorized practice of law;

3. on pure questions of law;

4. on questions solely involving the lawyer's or legal paraprofessional's exercise of judgment or discretion, if the ethics of choices within the range of discretion is not at issue;

5. on the reasonableness of an lawyer's hourly, flat, or contingent fee in a particular case; or

6. on the propriety of the division of fees ~~between or among lawyers~~ in a particular case.

(d) [No change]

(e) Opinion Requests. Opinions may be requested by the State Bar, any State Bar member, any State Bar affiliate member, any Compliance Lawyer of an Alternative Business Structure, any person seeking advice about whether the person's proposed conduct would constitute the unauthorized practice of law, any Committee member, or the Supreme Court. Requests for opinions must be submitted in writing to the Supreme Court clerk and be accompanied by a letter or memorandum describing the facts and discussing the issues presented in the request. The Supreme Court clerk will assign a number to each opinion request when it is received, and forward copies of the request to all Committee members. The clerk and the Committee members must keep confidential the identity, organizational affiliation, and geographic location of persons requesting opinions.

(f)-(l) [No change]