



a permanent basis, with all comments due no later than October 1, 2024, and any reply due no later than October 15, 2024.

The petition may be viewed by going to: <http://www.azcourts.gov/Rules-Forum>. This opens the "Welcome" page. Petitions are posted under the appropriate body of rules (such as the "Rules of the Supreme Court"), which can be found by scrolling down the page.

For instructions on how to post comments electronically, click on <https://www.azcourts.gov/rules/Forum-FAQ> at the top of the "Forum FAQ" page and then "How do I file a comment on a Rule 28 petition?"

Alternatively, commenters may submit comments by filing an original and one paper copy of the comment and one electronic copy of the written comments and supporting documents in Microsoft Word format on a CD or other compatible electronic medium with the Clerk of the Supreme Court, 1501 West Washington St., Room 402, Phoenix, AZ 85007 in an envelope marked "Rule Comment."

Any person filing a comment must send a copy of the comment to the Petitioner electronically or by ordinary mail.

DATED this 22<sup>nd</sup> day of August, 2024.

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/s/  
ANN A. SCOTT TIMMER  
Chief Justice

TO:

Rule 28 Distribution  
David K Byers

## ATTACHMENT<sup>1</sup>

### RULES OF THE SUPREME COURT OF ARIZONA

#### Rule 82. Judicial Ethics Advisory Committee

(a)–(e) [No change]

**(f) Comment Period.** The advisory committee must seek comment prior to issuance of a formal advisory opinion through the distribution of a summary of the facts and questions presented. The comment period must be open for at least thirty (30) days. After the comment period ends, the advisory committee must consider all submitted comments and, in light of those comments, decide whether to issue a formal advisory opinion or take other appropriate action.

**(g) Supreme Court Review.** If the advisory committee decides to issue a formal advisory opinion, the chairperson must file the proposed opinion, subject to redaction to preserve confidentiality of the source of the request and that of any commenters, with the Clerk of the Supreme Court for Supreme Court review. Within thirty (30) days after the proposed opinion's submission, the court may take any action it deems appropriate, including declining review of the opinion, approving the opinion, ordering that the opinion not be posted or distributed, modifying the opinion, or directing the advisory committee to make specified changes or reconsider certain issues.

**(fh) Opinion Distribution.** If the Supreme Court does not take any action on the proposed opinion within thirty (30) days or after it declines review or approves the opinion (with or without modifications), the formal advisory opinion will be deemed final. ~~Immediately upon approval, the advisory committee's~~ The formal advisory opinion shall be initially distributed to the requester, the justices, clerk and chief staff attorney of the supreme court, the chief judges of the court of appeals, the presiding judges of the superior court, the director of the Administrative Office of the Courts, and the chief bar counsel to the Arizona State Bar. Formal opinions shall be accumulated and distributed to all other judges at least annually. Records of advisory committee determinations and opinions shall be maintained at the committee's office.

**(gi) Reconsideration.** Within thirty (30) days after the distribution of a formal opinion to all judges, any person, court or agency authorized to request an opinion under this rule may petition the advisory committee to reconsider the opinion by submitting a request for reconsideration to the advisory committee's office in the form of a letter or memorandum explaining the basis for the request. The advisory committee shall respond to the request by either reaffirming or revising the formal opinion. If the advisory committee revises the opinion, it must resubmit the opinion to the supreme court for

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<sup>1</sup> Additions to the text of the rule are shown by underscoring and deletions are shown by ~~strike-through~~.

review. If warranted, the advisory committee or the supreme court may also reconsider an opinion at any time on its own motion. Revised opinions shall be distributed in the same manner as original opinions.

**(hj) Opinion as Defense.** Reliance on a formal advisory opinion may be raised as a defense in any disciplinary proceeding.