

RULES OF THE RHODE ISLAND SUPREME COURT ETHICS ADVISORY PANEL

Rule 1. Purpose. These Rules are promulgated in order to assist attorneys in obtaining advisory opinions interpreting the Rules of Professional Conduct from the Ethics Advisory Panel pursuant to Article V of the Supreme Court Rules.

Rule 2. Jurisdiction. The Panel shall accept requests from any member of the Rhode Island Bar in good standing concerning his or her prospective conduct as an attorney under the Rules of Professional Conduct as set forth in Article V of the Supreme Court Rules. The Panel may decline to render an advisory opinion if any of the following circumstances exist:

- (a) The request seeks an opinion about the conduct of a lawyer other than the inquirer.
- (b) The request concerns a hypothetical situation and does not arise from a factual situation faced by the inquirer.
- (c) The request seeks an opinion concerning conduct not governed by the Rules of Professional Conduct.
- (d) The request requires a determination to be made concerning past conduct or is based on facts which are the subject of a complaint pending before the Disciplinary Board of the state Supreme Court.
- (e) The request contains insufficient information on which the Panel can make a judgment.
- (f) The request is not in the form required by Rule 3 hereof.
- (g) The opinion would require resolution of questions concerning substantive law outside the area of legal ethics and discipline.
- (h) The request concerns a matter that is pending in litigation and that is within the jurisdiction of a court or other tribunal. (As amended by the court February 16, 2007, eff. April 15, 2007.)

Rule 3. Form of request. A request shall be in writing, shall set out the factual situation in detail and, if possible, the applicable sections of the Rules of Professional Conduct. The inquiring attorney shall substitute pseudonyms for all names of individuals included in the inquiry. A request shall also contain a representation by the inquirer that the factual situation described directly affects the inquirer's professional conduct and that the opinion of the Panel will not affect interests of parties to any pending action. It shall be addressed and sent to the Chairperson, Ethics Advisory Panel of the Supreme Court.

Rule 4. Disposition of requests. Requests shall be taken up for consideration during Panel meetings. At the Panel's discretion the inquirer may be invited to attend a Panel meeting to provide additional information. In order to render an advisory opinion in connection with any request accepted for consideration, two-thirds of the Panel members must vote in favor of the opinion. The advisory opinion shall be issued in written form and mailed to the inquirer.

Rule 4.1. General informational opinions. The Panel may issue general informational opinions

in which a general fact situation is set forth and the applicable Rule citations, ethics opinions and law are described. Such general informational opinions will provide general guidance and will give notice to the Bar of the Panel's position on the issue or issues discussed. Compliance with a general informational opinion shall not have the same effect as set forth in Rule 5, and shall not create any protective presumption. In order to render a general informational opinion two-thirds of the Panel must vote in favor of issuance and a final draft must be approved by two-thirds of the Panel members. General informational opinions shall not be included in the regular numbering system and may be disseminated pursuant to Rule 7.

Rule 5. Effect of advisory opinion. Provided no misrepresentation or omission of material fact is made by the inquiring attorney, the inquiring attorney who acts in accordance with the advisory opinion, shall be conclusively presumed to have abided by the Rules of Professional Conduct.

Rule 6. Confidentiality. The name and letter of an inquiring attorney, the Panel's proceedings considering requests for advice and the advisory opinion letter to the inquiring attorney shall be confidential. The advisory opinion and the facts (excluding the identity of parties) on which it is based shall not be kept confidential but shall be proper subjects for publication.

Rule 7. Publication. Advisory opinions shall be published in condensed or digest form as frequently as practicable in appropriate manuals, journals and other resources including but not limited to the Rhode Island Bar Journal, the Rhode Island Lawyers Weekly and the ABA/BNA Manual of Professional Conduct.

Rule 8. Internal Operating Procedure.

8.1. Officers. The Panel shall elect a chairperson, vice chairperson and secretary annually in January. The officers shall fulfill those duties traditionally expected of persons holding such positions.

8.2. Meetings. The Panel shall meet on the first Tuesday of each month or at any other time agreed upon by the members or at the call of the chairperson.

8.3. Quorum. A majority of Panel members shall constitute a quorum. Unless otherwise stated in these Rules, a quorum shall be sufficient to conduct business.

8.4. Preliminary determination. When a request for an advisory opinion is received, a copy shall be forwarded to each Panel member. The request shall be placed on the agenda for the next meeting of the Panel for a preliminary determination on whether an advisory opinion should be rendered. If the Panel declines to render an opinion for any of the reasons stated in Rule 2, the Minutes shall reflect the Panel vote and the inquiring attorney shall be notified in writing.

8.5. Advisory opinions. If the Panel determines that an advisory opinion should be issued, counsel to the Panel shall provide such research as is necessary and shall draft an opinion to submit for Panel review. The draft of the advisory opinion letter must be assigned to an agenda of a subsequent meeting of the Panel for a vote pursuant to Rule 4 before issuance. After this vote but before issuance an advisory opinion letter may be edited for style or to correct grammatical or clerical error but no substantive changes may be made.

8.6. Parliamentary procedure. In the event that any procedural dispute arises which cannot be resolved by reference to these Rules and such dispute disrupts the Panel's ability to function,

such dispute shall be resolved by reference to *Robert's Rules of Order*.

ETHICS ADVISORY PANEL

General Information

Inquiries should be sent to:

Ethics Advisory Panel
Rhode Island Supreme Court
John E. Fogarty Judicial Annex
24 Weybosset Street, 2nd Floor
Providence, RI 02903
Attention: Panel Staff Attorney

An attorney who abides by a written advisory opinion will be conclusively presumed to have abided by the Rules of Professional Conduct. In some situations, there may not be enough time to submit a written inquiry and receive a written opinion. In those situations the Panel Staff Attorney is available to assist attorneys by locating and explaining pertinent provisions in the Rules or making available digests of previous Panel opinions which focus on the same or similar issues. Telephone discussions do not, of course, give rise to a conclusive presumption of compliance with the Rules. The Panel Staff Attorney may be reached at (401) 222-3270 (voice).