

RULE 1:17A. Advisory Committee On Outside Activities

1:17A-1. Appointment and Organization

The Supreme Court shall appoint an Advisory Committee on Outside Activities of Judiciary Employees consisting of at least 16 members serving for terms of two years with the terms of approximately one half of the members expiring each year. No member who has served five full two-year terms shall be eligible for immediate reappointment. The Committee shall include at least six judges (at least one from the Appellate Division), one Surrogate, four judiciary employees, two practicing attorneys, and three public members. A vacancy occurring during a term shall be filled for the unexpired portion thereof. The Court shall annually designate a member of the Committee to serve as Chairperson and another member to serve as Vice Chairperson. The Administrative Director of the Courts or designee shall serve as secretary of the Committee.

Note: Adopted December 7, 1993, to be effective immediately; amended December 6, 2005 to be effective immediately.

1:17A-2. Jurisdiction

The Committee shall have jurisdiction to interpret the Code of Conduct for Judiciary Employees. In particular, the Committee shall have jurisdiction to issue advisory opinions and to render decisions as follows:

- (a)** The Committee shall render advisory opinions concerning employees' outside activities when such opinions are requested by any judiciary employee or supervisor.
- (b)** The Committee shall decide whether to permit employees who are subject to Canon 5.C.1 of the Code of Conduct to accept appointments to public positions or to undertake community activities. Such employees are required to obtain the consent of the Committee before beginning any of those activities.
- (c)** The Committee shall decide appeals from any judiciary employee who has been informed of an adverse decision:
 - (1) regarding outside employment by a supervisor or other person named in Canon 5.B.14.a.(2)(a)-(f) of the Code of Conduct;
 - (2) regarding appointment to a public position by a supervisor or other person named in Canon 5.C.2.e.(2)(a)-(f) of the Code of Conduct;
 - (3) regarding participation in non-partisan political activities by a supervisor or other person named in Canon 6.H.2.(a)-(f) of the Code of Conduct.
- (d)** The Committee shall render advisory opinions in any matter when requested to do so by the Supreme Court.

Note: Adopted December 7, 1993, to be effective immediately.

1:17A-3. Scope of Review

- (a)** In rendering its decisions and in issuing its advisory opinions, the Committee shall determine whether the activities that are the subject of the inquiry would violate,

contravene, or conflict either with specific provisions of the Code or with the principles, goals, or standards of the Code.

(b) All decisions rendered and advisory opinions issued by the Committee shall be based on the facts presented pursuant to Rule 1:17A-4.

(c) In all matters in which a decision or advisory opinion of the Committee would depart from the Code of Conduct or involve a policy decision that is beyond the scope of the Code of Conduct, the Committee shall refer such matters to the Supreme Court for review, with such recommendation as the Committee may wish to make.

Note: Adopted December 7, 1993, to be effective immediately.

1:17A-4. Form of Inquiry

All inquiries, whether requesting a decision or an advisory opinion, as applicable, shall be addressed to the secretary, who shall transmit them to the Committee. They shall be in writing, shall set out the factual situation in detail, and shall be accompanied by a short memorandum citing the relevant section(s) of the Code of Conduct.

Note: Adopted December 7, 1993, to be effective immediately.

1:17A-5. Disposition of Inquiries

Except as may otherwise be determined by the Committee in the case of routine inquiries that require a response before the Committee can act, no decision or advisory opinion shall be given or made by the Committee unless concurred in by a majority thereof. The Committee shall render its decision or advisory opinion within 30 days of its receipt of the written inquiry. In every matter the secretary shall convey the Committee's response in writing to the person making the inquiry. When the Committee determines, in its discretion, that a determination is of statewide importance, it may in addition file a formal opinion and make suitable arrangements for its publication. Formal opinions shall not, insofar as practicable, identify the employee making the inquiry.

Note: Adopted December 7, 1993, to be effective immediately.

1:17A-6. Inquiries From Supreme Court

The Committee shall consider and advise the Supreme Court or render opinions on such matters as the Supreme Court may submit to it from time to time. Those opinions shall not be published without prior approval of the Court.

Note: Adopted December 7, 1993, to be effective immediately.

1:17A-7. Procedure

The Committee shall prescribe the methods and procedure to be followed in considering inquiries, expressing advisory opinions, and rendering decisions.

Note: Adopted December 7, 1993, to be effective immediately.

1:17A-8. Petitions for Review

(a) Review on Leave Granted by the Supreme Court. The determination of the Committee shall be final unless the Supreme Court grants a petition for review filed pursuant to this Rule, or unless the Court in its sole discretion decides to review the matter.

(b) Notice. Within 30 days after an employee is notified in writing of the response to the inquiry, or, if a formal opinion has been rendered, within 20 days after its publication, the employee, if aggrieved thereby, may seek review thereof by filing a notice of petition for review with the Clerk of the Supreme Court.

(c) Application for Waiver of Filing Fee for Petition for Review. At the time of filing of the notice of petition for review, an employee may file with the clerk of the Supreme Court an application for waiver of the filing fee set forth in N.J.S.A. 22A:2-1. Such application may be granted based on the employee's certification that the matter presented for review pertains to the interpretation or administration of the Code of Conduct for Judiciary Employees.

(d) Record on Petition for Review. If the petition for review is granted, the record on review shall be the formal opinion, if any, or the Committee's written response to the employee issued pursuant to Rule 1:17A-5, the inquiry or memorandum submitted, and any documents relied on by the Committee in arriving at its determination.

(e) Form of Petition for Review. A petition for review shall contain a short statement of the matter involved, the question presented, the errors complained of, and the arguments in support of petitioner's position.

(f) Service and Filing of Petition for Review. Within 10 days after filing of the notice of petition for review, the employee shall serve 2 copies of the petition on the Secretary of the Committee and shall file 9 copies thereof with the Clerk of the Supreme Court.

(g) Final Determination. The final determination of a petition for review may be either by written opinion or by order of the Supreme Court and shall state whether the opinion or other action of the Committee is affirmed, reversed, or modified, or shall provide for such other disposition as is appropriate.

Note: Adopted December 7, 1993 to be effective immediately; former paragraph (c) redesignated paragraph (d), paragraph (d) redesignated paragraph (e), paragraph (e) redesignated paragraph (f), paragraph (f) redesignated paragraph (g), new paragraph (c) adopted February 3, 1997 to be effective March 1, 1997.

1:17A-9. Reports

From time to time the Committee shall evaluate its operations in reports to the Supreme Court. Such reports shall include any recommendations the Committee may wish to make regarding amendments either to the Code of Conduct, to the procedures whereunder the Code of Conduct is administered, or to this Rule.

Note: Adopted December 7, 1993, to be effective immediately.