

SUPREME COURT OF THE STATE OF COLORADO  
OFFICE OF THE CHIEF JUSTICE

CREATION OF, AND PROCEDURAL RULES FOR,  
THE COLORADO JUDICIAL ETHICS ADVISORY BOARD

I. Scope, Purpose and Title

A. The Colorado Judicial Ethics Advisory Board ("the board") provides advisory opinions to state justices, judges, magistrates, judicial employees, and members of the board seeking opinions concerning the compliance of intended, future conduct with the Colorado Code of Judicial Conduct. Promulgation of this Chief Justice Directive is not intended to prohibit justices, judges, magistrates, judicial employees or members of the board from seeking ethics advice from other sources, such as from the executive director and chief counsel of the Colorado Commission on Judicial Discipline or the legal counsel for the judicial branch, without contacting the board.

II. Composition

A. The board shall be composed of seven members, who shall be appointed by the Chief Justice.

B. Four members shall be state judges. When possible, at least one judge shall be from a rural area court. Judge members may be active or retired.

C. One member shall be a citizen, who is not an attorney or judge, now or in the past.

D. One member shall be an attorney, who is not a justice or judge, now or in the past. The attorney member shall have been admitted to the practice of law in the state of Colorado for at least ten years.

E. One member shall be a law professor, with an interest in ethics.

F. The board members shall elect a chair.

G. The Chief Justice may appoint one or more persons to provide staff assistance to the board.

### III. Terms of Office

A. Board members shall serve for three year terms from their date of appointment.

### IV. Vacancies

A. The Chief Justice shall fill vacancies on the board for an unexpired term for the remainder of the term.

### V. Restrictions on Membership

A. No member shall serve simultaneously on the board and the Colorado Commission on Judicial Discipline.

### VI. Meetings

A. Meetings for the transaction of any board business, including the issuance of any advisory opinion may be in person, by telephone conference, video conference, e-mail or by circulated writing.

### VII. Expenses

A. Members of the board shall be reimbursed for their actual and necessary expenses incurred in the discharge of their official duties as board members.

### VIII. Promulgation of Rules and Procedures

A. The board may promulgate additional rules of procedure not inconsistent with these rules subject to approval of the Colorado Supreme Court.

### IX. Requests for Advisory Opinions

A. A request for a judicial ethics advisory opinion shall be directed to any board member. Requests may be received from:

1. Colorado state justices, judges or magistrates who are serving in active status or as members of the Colorado senior judge program, or

2. A district administrator or clerk of court, making a request on behalf of the judicial officers in the district or court served, or

3. The state court administrator or the legal counsel for the judicial branch, or

4. A member of the board.

B. The board on its own motion may adopt advisory opinions issued in other states and reissue them as advisory opinions from the board on issues of general interest without being asked for an opinion by an individual.

#### X. Contents of Requests for Advisory Opinions

A. 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 course of conduct together with a clear, concise question of judicial ethics. The identity of the individual making the request shall be disclosed to the board members and the staff assisting the board. Board members and staff shall not disclose the identity of the person making the request to anyone outside the board unless the requesting person consents.

B. The requesting individual shall state that the opinion is not sought with respect to past or present conduct and that the request is not the subject of a past or pending disciplinary proceeding before the Colorado Commission on Judicial Discipline. Requests shall not be accepted by the board or referred for opinion unless accompanied by this supporting statement.

#### XI. Content of Advisory Opinions

A. Advisory opinions shall set forth the facts upon which the opinion is based. Unless the requesting person consents to be identified, an opinion shall not include the name of the requesting party or identifying information if such information can reasonably be deleted. Advisory opinions shall address only whether an intended, future course of conduct violates or does not violate the Colorado

Code of Judicial Conduct and shall provide an interpretation of the Code only with regard to the factual situation presented. The opinion shall not address other issues of law nor shall it address the ethical propriety of present conduct or past conduct.

B. If the facts, circumstances or questions presented by the requesting individual are unclear, vague or insufficient in detail to enable the board to render an advisory opinion, the board may refuse to consider the matter or may request that the requesting individual provide supplementary information to the board.

C. If the supplementary information is still unclear, vague or insufficient in detail, or is not provided within a reasonable time, the board shall inform the requesting individual that it will not render an advisory opinion.

D. The board may respond to requests for an advisory opinion by referring the requesting individual to any prior advisory opinion and by so doing shall not publish a new advisory opinion.

## XII. Distribution Of Advisory Opinions

A. The board shall provide a copy of each advisory opinion to the requesting individual, the Chief Justice, the Colorado Commission on Judicial Discipline, the Colorado Supreme Court law library, the University of Colorado law library, the University of Denver law library, the journal entitled The Colorado Lawyer, the Colorado judicial branch web site, and the American Judicature Society. The board shall retain the original opinion in a permanent file in the offices of the State Court Administrator.

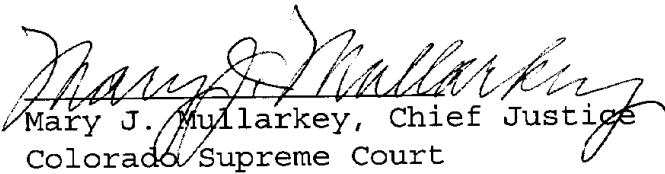
B. The board may repeal an advisory opinion issued in the past, may issue a cautionary statement concerning a past advisory opinion, or may amend a past advisory opinion in consideration of an opinion from the Colorado Supreme Court, action by the Judicial Discipline Commission, or amendments to the Colorado Code of Judicial Conduct.

## XIII. Binding Effect of Advisory Opinions

A. All opinions shall be advisory in nature only. No opinion shall be binding on the Colorado Commission on Judicial Discipline or the Colorado Supreme Court in the exercise of their judicial disciplinary or other responsibilities. However, compliance with a written advisory opinion of the board shall be considered to be evidence of a good faith effort to comply with the Colorado Code of Judicial Conduct.

B. An opinion given to a requesting individual in an oral conversation is neither binding on the board nor evidence of a good faith effort to comply with the Colorado Code of Judicial Conduct.

Amended this 19<sup>th</sup> day of December, 2006, amendments effective the first day of January, 2007.

  
Mary J. Mullarkey, Chief Justice  
Colorado Supreme Court