

Supreme Court Committees - Operational Guidelines

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The Supreme Court

(a) Introduction

The Supreme Court standing committees have provided invaluable assistance to the judicial system through responsible and hardworking leadership and membership. Over the past few years numerous suggestions have been made for new procedures and guidelines to improve and aid the committees in their work. These suggestions have emanated from the judiciary, the various bar associations, interested groups and individuals, the AOC and, of course, the committees themselves.

There are three categories of Supreme Court standing committees: (a) rules committees, (b) program and jury charge committees, and (c) regulatory committees.

There are ten Supreme Court standing committees in the "rules committee" category:

1. Civil Practice Committee
2. Committee on Complementary Dispute Resolution
3. Criminal Practice Committee
4. Family Practice Committee
5. Committee on Minority Concerns
6. Committee on Municipal Courts
7. Committee on the Rules of Evidence
8. Special Civil Part Practice Committee
9. Tax Court Committee
10. Committee on Women in the Courts

These "rules committees" have the task of recommending to the Court (a) amendments and additions to the Rules of Court, (b) policy statements (with respect to rules), and (c) suggestions for new legislation and statutory amendment as related to practice before the courts. The Court relies on each committee to provide well-reasoned, expert advice on matters within that committee's general area of knowledge and responsibility.

In addition, there are eight other standing committees that, although not strictly devoted to rule and policy development, have a related role and are subject to the same appointment process as the rules committees. These committees, which can collectively be termed the "program and jury charge committees," are as follows:

1. Committee on Judicial Education;
2. Committee on Judicial Salaries and Pensions;
3. Judiciary Information Systems Policy Committee;
4. Committee on Model Jury Charges, Civil;
5. Committee on Model Jury Charges, Criminal;
6. Committee on Paralegal Education and Regulation;
7. Committee on Relations with the Media; and
8. State Domestic Violence Working Group.

Finally, there are fourteen standing advisory or regulatory committees ("regulatory committees") that are responsible for special activities relating to the bench and bar. These regulatory committees are:

1. Committee on Attorney Advertising;
2. Advisory Committee on Bar Admissions;
3. Board of Bar Examiners;
4. Committee on Character;
5. Advisory Committee on Extrajudicial Activities;
6. Advisory Committee on Judicial Conduct;
7. Advisory Committee on Outside Activities of Judiciary Employees;
8. Advisory Committee on Professional Ethics;
9. Board on Trial Attorney Certification;
10. Committee on Unauthorized Practice of Law;
11. Disciplinary Oversight Committee;
12. Disciplinary Review Board;
13. IOLTA Board; and
14. Judicial Performance Committee.

Since these fourteen regulatory committees are already governed by Court Rule or Supreme Court order, they are not to be governed by these Operational Guidelines except as to the format for submitting committee reports.

In the past, standing committees have worked without the benefit of any guidelines. Experience, however, revealed that it is desirable to bring greater structure to committee operations and to better define the role of the committees and their responsibility to the Supreme Court.

The Court has adopted the following Operational Guidelines (initially effective September 1, 1988) with the understanding that their implementation will be flexible enough to allow for the particular needs of each committee. The Guidelines are applicable only to the ten rules committees, as listed above, except where otherwise stated.

(b) Composition Of Committees

Guideline 1--Size --The size of the rules committees and the program and jury charge committees should generally be limited to between 25 and 30 members.

Experience has shown that standing committees often work best when their size is limited. At the same time it is recognized that many individuals desire the opportunity to serve on these committees and that the committee work product is improved when diverse points of view are represented. To balance these needs, it may be necessary to impose a ceiling on the number of members to be appointed to each committee. Many committees operate well with approximately 25 members. Others, particularly those that are formally divided into subcommittees, can operate effectively with a somewhat larger membership.

For reasons of efficiency, therefore, the size of the rules committees and the program and jury charge committees will generally be limited to between 25 and 30 members. Each committee chairperson shall advise the Court whenever he or she finds it necessary to exceed this limit if efficient operations can be maintained with a larger committee membership. The size of the regulatory committees is most often governed by court rule and will continue to be so governed.

Guideline 2--Membership Composition -- Committee membership should continue to include a broad cross-section of the bench, the bar (including attorneys from small firms and solo practitioners), and, where appropriate, the public.

Most committees are made up of members from the Judiciary, the Bar, and, when appropriate, the public. There is support for continuing efforts to make the committees as broadly representative as possible to ensure that a wide range of viewpoints are heard. Recently, there has been an informal policy of inviting representation on various committees from organizations (such as the New Jersey State Bar Association and the Prosecutors Association) and from public agencies (such as the Department of the Public Advocate and the Department of Law and Public Safety (the Attorney General)). This policy should continue in order to ensure a broad cross-section of members of the bench, bar and, where appropriate, the public.

Each committee chairperson is asked to develop and forward to the Supreme Court, for the Court's approval, a suggested list of organizations, agencies, and groups (professional, governmental, and public interest) whose members should be represented on that committee.

Efforts must and will be made to place interested judges on committees for which they volunteer to serve, and to maintain a rational and efficient turnover policy that will help afford judges the opportunity to serve on committees of their choice.

Additionally, wherever appropriate, each committee should contain practicing attorneys among its members, appointed by the Court in consultation with the Bar so as to ensure the opportunity for significant participation by practicing attorneys. Attorney appointments should ordinarily include attorneys from small firms and solo practitioners.

Guideline 3--Chairperson; Vice-chairperson -- a chairperson and vice-chairperson will be appointed for each committee.

The chairperson is responsible for (a) determining meeting dates, (b) supervising the preparation of committee agendas, (c) conducting meetings, (d) monitoring all committee projects, (e) ensuring that timely and complete committee reports are produced, and (f) making recommendations to the Supreme Court regarding membership on the committee.

The committee vice-chairperson should assume these responsibilities if the chairperson is unable to perform them.

Guideline 4--Terms of Members and Chairpersons -- Membership on rules committees, program and jury charge committees, and those regulatory committees not covered by court rule shall be for specific two-year terms, renewable by the Court. The Court will exercise its reappointment power so as to increase the opportunity of those who desire to serve without causing sudden major turnover of membership and to continue the membership of those whose knowledge, experience, and expertise cannot be duplicated.

Since September 1988, appointments to all standing committees will be for specific terms. The purpose is to permit greater rotation of members and thus facilitate greater participation and diversity of views. However, the Court will attempt to

accomplish this while at the same time preserving the continuity of membership and leadership.

Terms of service on the rules committees and the program and jury charge committees will be for two years, renewable by the Court. The Court recognizes, however, the need for experienced committee members, a need that at times requires service in excess of two years. The appointment of representative members (*i.e.*, those lawyers or other individuals who represent professional, governmental, or public interest groups) to those committees will also be to two year terms, conditioned upon their continued employment by or association with the professional, governmental, or public interest groups.

When membership on a committee is held by virtue of a position in another organization (*i.e.*, *ex officio*), such membership terminates on the expiration of that member's term of office in the organization. The successor to that position succeeds also to membership on the committee without the requirement of prior Supreme Court approval.

While some members will thus retire from committee service after one or two terms so as to ensure diversity and to implement the Court's policy of encouraging rotation, the Court in its discretion will reappoint members as it determines appropriate. In particular, the Court intends to continue indefinitely the membership of some whose contributions to the work of a committee have been unique.

Appointments to the standing regulatory committees, such as the Disciplinary Review Board and the Board of Bar Examiners, will continue to be for the staggered terms set forth in the Rules of Court. If not provided for in the Rules, such appointments shall be subject to the provisions of these Guidelines as to terms of service.

Committee chairpersons and vice-chairpersons may be appointed to longer terms, also renewable at the Court's discretion.

(c) Committee Operations

Guideline 5--Rules Committee Terms -- Rules committees will operate on a two-year cycle.

Rules committees formerly operated on an annual basis--from September through August--with committee reports issued in the Spring. The Court in 1988 decided to adopt a change in this process so that rules committees operate on a two-year cycle, beginning September 1 of even-numbered years, following the appointment of committee members by the Supreme Court, and running for a two-year period through August 31 of the following even-numbered year.

Guideline 6--Rules Committee Reports -- Rules committee reports will be due no later than January 15th of the second year of the two-year cycle.

The committee will remain in existence until the end of August of that second year, even though its report will already have been submitted to the Court, thus enabling the committee to handle emergent requests for review of rules, to answer inquiries from the Court and others concerning the committee report, and to submit any necessary supplemental reports.

Guideline 7--Emergent Matters -- Particular matters may be handled as emergent, for recommendation to the Court outside the two-year cycle.

With rules committees in session for a two-year term, there may be times when a proposal for rule amendment requires the attention of the Supreme Court prior to the issuance of the committee's report in the second year. The Court itself also might refer a matter to a committee and ask for a rule recommendation on an emergent basis. The following procedure is adopted for handling such emergent matters:

- (a) If immediate need for Supreme Court review of a rule amendment proposal arises, the committee chairperson may submit the proposal to the Supreme Court, with a suggestion that the proposal should receive the Court's attention on an emergent basis.
- (b) If the Court refers an emergent matter to a committee for review, the committee should promptly consider it and advise the Court of its recommendation as soon as possible.

Because of the need for public review and comment on rules and rule amendments adopted on an emergent basis, such rules and rule amendments will be reviewed during the public comment period next following their emergent adoption.

Guideline 8--Committee Projects -- At the beginning of each two-year committee term, each committee chairperson should prepare a proposed agenda of major matters to be addressed by the committee, for distribution to the Court.

The Court would like an indication of any major work scheduled to be handled by each rules committee substantially in advance of the submission of the biennial report. Therefore, at the beginning of each new committee term, each committee chairperson should prepare a proposed agenda of major matters to be considered by the committee. This agenda may include items carried over from the previous term as well as other matters proposed for consideration by the committee. Major projects added during the term should also be brought to the Supreme Court's attention.

Guideline 9--Staff -- Staff assistance to the rules committees and the program and jury charge committees will be provided by the Administrative Office of the Courts.

Each rules committee and program and jury charge committee will receive staff assistance from the Administrative Office of the Courts to arrange meetings, prepare and distribute agendas and minutes, maintain committee files, assist the committee in the preparation of its report to the Supreme Court, and undertake such other duties as directed by the committee or the committee chairperson.

Staffing for the regulatory committees will continue to be determined by the nature of the particular committee's work.

Guideline 10--Coordination Among Rules Committees -- The rules committees each will have areas of primary responsibility; the committees should make every effort to share information and coordinate their efforts so as to minimize conflicts and avoid delay.

The Supreme Court has designated the areas of primary responsibility of the rules committees as follows:

Civil Practice Committee	Parts One, Two and Four of the Rules
Criminal Practice Committee	Part Three of the Rules
Family Practice Committee	Part Five of the Rules
Special Civil Part Committee	Part Six of the Rules
Municipal Court Committee	Part Seven of the Rules
Tax Court Committee	Part Eight of the Rules

During the past several years there have been occasions when identical or similar recommendations have been considered by different rules committees. Also, rule recommendations with broad application on occasion have been submitted to the Court without having undergone prior review by other committees with a legitimate interest in the subject matter. The rules adoption process has been delayed in those instances so as to obtain additional necessary review.

To avoid inconsistency, duplication, and delay, committee chairpersons and staff shall exchange information with chairpersons and staff of other committees regarding the work of their respective committees. Sharing proposed agendas is one way to achieve a coordinated exchange of information. Also, committee chairpersons should communicate with one another prior to report preparation time when they plan to make a recommendation that directly affects rules or procedures outside their primary area of responsibility.

This referral process will help to minimize conflicts and provide the Court with the benefit of a broader range of opinion, and will help avoid unnecessary delay in acting on committee recommendations. This procedure should be undertaken so as to ensure that the committee reports submitted to the Court by January 15 of the second year (see Guideline 14, below) reflect or take into account the views of all committees affected by particular recommendations contained in those reports.

Guideline 11--Handling Referrals -- Each committee should establish procedures for tracking, handling, and responding to referrals in a prompt and consistent manner.

Matters can reach committees in a number of ways. Judges, attorneys, bar associations, and interested members of the public may make rule suggestions to committees. Committee members may suggest rule amendments for consideration. On occasion, matters may be referred by the Supreme Court, the Chief Justice, or the Administrative Director.

Each item referred to a committee for review and recommendation should be tracked and handled in a consistent manner. Each referral should be promptly acknowledged. It should be assigned a number, or other identifying designation, and be placed before the committee for consideration. The progress of each matter should be followed and after committee disposition the inquirer should be advised of the committee's final determination and recommendation to the Court, if any. The inquirer should also subsequently be advised by the committee as to the Court's action on any such committee recommendation.

Guideline 12--Reference of Rule and Non-Rule Recommendations to the Conferences of Presiding Judges -- Rule and non-rule

recommendations may be referred by the Supreme Court prior to action to the appropriate Conference of Presiding Judges for review and comment.

Frequently committees have recommended the adoption of administrative directives or other actions that clarify rules, express important policy considerations, or resolve court management problems. Committees are encouraged to continue to bring such suggestions to the attention of the Supreme Court.

To ensure coordination, however, rule and non-rule recommendations that may affect court management should be brought to the attention of the Chief Justice as early as possible so that the Chief Justice or the Supreme Court may, if they see fit, refer such recommendations to the appropriate Conference of Presiding Judges prior to submission to the Supreme Court for action. The Conference of Presiding Judges in each division is closely involved in the development and implementation of management changes that improve the operation of the division. It is therefore important for those Conferences to review and comment on rule and non-rule recommendations that relate to their particular areas of knowledge and responsibility.

(d) Supreme Court Review Process

Guideline 13--Types of Recommendations -- The Court will consider three types of recommendations from rules committees: (1) proposed rule amendments, (2) suggestions for administrative directives or other administrative actions, and (3) suggestions for statutory change.

Guideline 14--Public Comment; Rule Adoption -- The procedures for reviewing reports of the rules committees will be conducted in accordance with the timetable set forth in these Guidelines (unless otherwise specifically modified by the Court).

In 1985, the Supreme Court revised its long-standing procedures for reviewing reports of the rules committees. Instead of adopting rules prior to the Court's summer recess, to become effective at the beginning of September, the Court implemented a suggestion of the New Jersey State Bar Association to provide a longer period for public comment. The following timetable essentially follows the schedule in use since 1985, adapted to the two-year committee cycle noted above:

- a. All reports of the rules committees will be submitted to the Court by January 15th of the second year. By February 15th the reports will be published for comment.
- b. A notice soliciting written comments will be published along with the reports; the notice will also be published again in March or April.
- c. The time period for written comments will run until on or about May 1st.
- d. The comments received will be forwarded to the chairperson and staff of the respective rules committees so that the committees may provide further information or clarification to the Court as appropriate.

- e. On or about May 15th the Supreme Court will hold a public hearing, at which any interested person may address the Court concerning the rules committee recommendations before the Court.
- f. In June, after the public hearing, the Court will meet in conference to consider and adopt rule amendments and to consider non-rule recommendations.
- g. Rule amendments will be adopted in June of the second year, to be effective on September 1st of that year.
- h. All rule amendments approved by the Court will be published in June or July.
- i. Non-rule recommendations will be implemented as soon as practicable after approval by the Court, the Chief Justice or other appropriate approval authority.
- j. Following its review of all recommendations the Court will specifically advise each rules committee chairperson and staff of the outcome of its deliberations and the reasons for its actions on those committee recommendations.

EDITOR-S NOTE

These fourteen guidelines for the operation of the standing committees of the Supreme Court were adopted by the Court at its Administrative Conference on May 2, 1988. The guidelines became effective September 1, 1988. On December 19, 1990, the guidelines were revised to include two new standing committees: the committee on Complementary Dispute Resolution and the Committee on Women in the Courts. On October 24, 1994 the guidelines were further revised to include another new standing committee (The Committee on Minority Concerns), three new program committees (the Committee on Paralegal Education and Regulation, the Judiciary Information Systems Policy Committee, and the State Domestic Violence Working Group), and three new regulatory committees (the Advisory Committee on Outside Activities of Judiciary Employees, the IOLTA Board, and the Disciplinary Oversight Committee).

Outdated references to the ten rules committees in the text of the guidelines have been removed, as has some of the commentary to Guideline 5 which deals with the change from a one year to a two year cycle for rules committees.