

## SUPREME COURT RULEMAKING

**(a) Statement of Purpose.** The purpose of rules of court is to provide necessary governance of court procedure and practice and to promote justice by ensuring a fair and expeditious process. In promulgating rules of court, the Washington Supreme Court seeks to ensure that:

- (1) The adoption and amendment of rules proceed in an orderly and uniform manner;
  - (2) All interested persons and groups receive notice and an opportunity to express views regarding proposed rules;
  - (3) There is adequate notice of the adoption and effective date of new and revised rules;
  - (4) Proposed rules are necessary statewide;
  - (5) Minimal disruption in court practice occurs by limiting the frequency of rule changes;
- and
- (6) Rules of court are clear and definite in application.

**(b) Definitions.** As used in this rule, the following terms have these meanings:

(1) “Suggested rule” means a request for a rule change or a new rule that has been submitted to the Supreme Court.

(2) “Proposed rule” means a suggested rule that the Supreme Court has ordered published for public comment.

**(c) Request for Notification.** Any person or group may file a request with the Supreme Court to receive notice of a suggested rule. The request may be limited to certain kinds of rule changes. The request shall state the name and address of the person or group to whom the suggested rule is to be sent. Once filed, the request shall remain in effect until withdrawn or unless notice sent by regular, first-class U.S. mail is returned for lack of a valid address.

**(d) Initiation of Rules Changes.** Any person or group may submit to the Supreme Court a request to adopt, amend, or repeal a court rule. The Supreme Court shall determine whether the request is clearly stated and in the form required by section (e) of this rule. If the Supreme Court determines that a request is unclear or does not comply with section (e), the Supreme Court may (1) accept the request notwithstanding its noncompliance, (2) ask the proponent to resubmit the request in the proper format, or (3) reject the request, with or without a written notice of the reason or reasons for such rejection.

**(e) Form for Submitting a Request to Change Rules.**

(1) The text of all suggested rules should be submitted on 8 1/2- by 11-inch line-numbered paper with consecutive page numbering and in an electronic form as may be specified by the Supreme Court. If the suggested rule affects an existing rule, deleted portions should be shown and stricken through; new portions should be underlined once.

(2) A suggested rule should be accompanied by a cover sheet and not more than 25 pages of supporting information, including letters, memoranda, minutes of meetings, research studies, or the like. The cover sheet should contain the following:

(A) Name of Proponent--the name of the person or group requesting the rule change;

(B) Spokesperson--a designation of the person who is knowledgeable about the proposed rule and who can provide additional information;

(C) Purpose--the reason or necessity for the suggested rule, including whether it creates or resolves any conflicts with statutes, case law, or other court rules;

(D) Hearing--whether the proponent believes a public hearing is needed and, if so, why;

(E) Expedited Consideration--whether the proponent believes that exceptional circumstances justify expedited consideration of the suggested rule, notwithstanding the schedule set forth in section (i).

**(f) Consideration of Suggested Rule by Supreme Court.**

(1) The Supreme Court shall initially determine whether a suggested rule has merit and whether it involves a significant or merely technical change. A “technical change” is one which corrects a clerical mistake or an error arising from oversight or omission. The Supreme Court shall also initially determine whether the suggested rule should be considered under the schedule provided for in section (i) or should receive expedited consideration for the reason or reasons to be set forth in the transmittal form provided for in section (f)(2). The Supreme Court may consult with other persons or groups in making this initial determination.

(2) After making its initial determination, the Supreme Court shall forward each suggested rule, except those deemed “without merit”, along with a transmittal form setting forth such determinations, to the Washington State Bar Association, the Superior Court Judges Association, the District and Municipal Court Judges Association, and the Chief Presiding Judge of the Court of Appeals for their consideration. The transmittal shall include the cover sheet and any additional information provided by the proponent. The Supreme Court shall also forward the suggested rule and cover sheet to any person or group that has filed a notice pursuant to section (c), and to any other person or group the Supreme Court believes may be interested. The transmittal form shall specify a deadline by which the recipients may comment in advance of any determination under section (f)(3) of this rule. If the Supreme Court determines that the suggested rule should receive expedited consideration, it shall so indicate on the transmittal form. The form may contain a brief statement of the reason or reasons for such consideration.

(3) After the expiration of the deadline set forth in the transmittal form, the Supreme Court may reject the suggested rule, adopt a merely technical change without public comment, or order the suggested rule published for public comment.

**(g) Publication for Comment.**

(1) A proposed rule shall be published for public comment in such media of mass communication as the Supreme Court deems appropriate, including, but not limited to, the Washington Reports Advance Sheets and the Washington State Register. The proposed rule shall also be posted on such Internet sites as the Supreme Court may determine, including those of the Supreme Court and the Washington State Bar Association. The purpose statement required by section (e)(2)(C) shall be published along with the proposed rule. Publication of a proposed rule shall be announced in the Washington State Bar News.

(2) Publication of a proposed rule in the Washington State Register shall not subject Supreme Court rule making to the provisions of the Administrative Procedures Act.

(3) All comments on a proposed rule shall be submitted in writing to the Supreme Court by the deadline set forth in section (i).

(4) If a comment includes a suggested rule, it should be in the format set forth in section (e). All comments received will be kept on file in the office of the Clerk of the Supreme Court for public inspection and copying.

**(h) Final Action by the Supreme Court, Publication, and Effective Date.**

(1) After considering a suggested rule, or after considering any comments or written or oral testimony received regarding a proposed rule, the Supreme Court may adopt, amend, or reject the rule change or take such other action as the Supreme Court deems appropriate.

Prior to action by the Supreme Court, the court may, in its discretion, hold a hearing on a proposed rule at a time and in a manner defined by the court. If the Supreme Court orders a hearing, it shall set the time and place of the hearing and determine the manner in which the hearing will be conducted. The Supreme Court may also designate an individual or committee to conduct the hearing.

(2) Regarding action on a suggested rule:

(A) If the Supreme Court rejects the suggested rule, it may provide the proponent with the reason or reasons for such rejection.

(B) If the Supreme Court adopts the suggested rule without public comment, it shall publish the rule and may set forth the reason or reasons for such adoption.

(3) Regarding action on a proposed rule:

(A) If the Supreme Court rejects a proposed rule, it may publish its reason or reasons for such rejection.

(B) If the Supreme Court adopts a proposed rule, it may publish the rule along with the purpose statement from the cover sheet.

(C) If the Supreme Court amends and then adopts a proposed rule, it should publish the rule as amended along with a revised purpose statement.

(4) All adopted rules, or other final action by the Supreme Court for which this rule requires publication, shall be published in a July edition of the Washington Reports advance sheets and in the Washington State Register immediately after such action. The adopted rules or other Supreme Court final action shall also be posted on the Internet sites of the Supreme Court and the Washington State Bar Association. An announcement of such publication shall be made in the Washington State Bar News.

(5) All adopted rules shall become effective as provided in section (i) unless the Supreme Court determines that a different effective date is necessary.

**(i) Schedule for Review and Adoption of Rules.**

(1) In order to be published for comment in January, as provided in section (i)(2), a suggested rule must be received no later than October 15 of the preceding year.

(2) Proposed rules shall be published for comment in January of each year.

(3) Comments must be received by April 30 of the year in which the proposed rule is published.

(4) Proposed rules published in January and adopted by the Supreme Court shall be

republished in July and shall take effect the following September 1.

(5) All suggested rules will be considered pursuant to the schedule set forth in this section, unless the Supreme Court determines that exceptional circumstances justify more immediate action.

(6) The Supreme Court, in consultation with the Washington State Bar Association, the Superior Court Judges Association, the District and Municipal Court Judges Association, and the Chief Presiding Judge of the Court of Appeals, shall develop a schedule for the periodic review of particular court rules. The schedule shall be posted on such Internet sites as the Supreme Court may determine, including those of the Supreme Court and the Washington State Bar Association.

**(j) Miscellaneous Provisions.**

(1) The Supreme Court may adopt, amend, or rescind a rule, or take any emergency action with respect to a rule without following the procedures set forth in this rule. Upon taking such action or upon adopting a rule outside of the schedule set forth in section (i) because of exceptional circumstances, the Supreme Court shall publish the rule in accordance with sections (g) or (h) as applicable.

(2) This rule shall take effect on September 1, 2000 and apply to all rules not yet adopted by the Supreme Court by that date.

[Adopted effective March 19, 1982; Amended effective September 1, 1984; September 1, 2000.]