

**INTERNAL OPERATING PROCEDURES  
OF THE  
CIVIL PROCEDURE RULES COMMITTEE  
OF THE FLORIDA BAR**

**I. INTRODUCTION**

Under Florida Rule of General Practice and Judicial Administration 2.140, The Florida Bar has established the Civil Procedure Rules Committee (the “committee”) to consider proposals for changes to the Florida Rules of Civil Procedure.

**II. OFFICERS**

Subject to the discretion of the bar president-elect, the officers of the committee consist of a chair and 1 or more vice chairs.

**a. Chair.** The president-elect of the bar appoints the chair of the committee to serve for a 1-year term to coincide with the president-elect’s term of office as president. The chair governs the committee during that term and has the powers set forth herein. Once appointed by the president-elect, the chair-elect immediately has the power to make any appointment authorized herein, with the appointment taking effect on commencement of the chair-elect’s term of office as chair.

**b. Vice Chairs.** The president-elect of the bar appoints 1 or more vice chairs of the committee to serve for a 1-year term to coincide with the term of the chair appointed by the president-elect.

**c. Rules of Judicial Administration Liaison.** Under rule 2.140, 1 committee member will serve as liaison to the Rules of General Practice and Judicial Administration Committee. The chair appoints the liaison to serve during the chair’s term of office.

**III. SUBCOMMITTEES**

Subcommittees of the committee consist of standing subcommittees and special subcommittees. Appointment, removal, or replacement of members of subcommittees is within the chair’s sole discretion.

**a. Standing Subcommittees.**

1. The following standing subcommittees are established on an ongoing basis: Internal Operating Procedures, Legislative Review and Forms, Federal Rules, Subcommittee A (Rules 1.010 – 1.190), Subcommittee B (1.200

– 1.270), Subcommittee C (1.280 – 1.410), Subcommittee D (1.420 – 1.540), Subcommittee E (1.545 – 1.650), and Subcommittee E (1.700 – 1.830).

2. The chair appoints a chair for each standing subcommittee to serve during the committee chair’s term.

**b. Special Subcommittees.**

1. The chair has the discretion to create and appoint special subcommittees when needed to review particular proposed changes to the Rules of Civil Procedure as set forth in Section V below.

2. The chair will appoint a subcommittee chair for each special subcommittee.

**c. Subcommittee Reports.** Bar staff will take summary minutes of each meeting, that will be sent to the subcommittee chair for approval. If additional explanation is needed to understand the reasons for the proposed subcommittee action, a memo or subcommittee report may be included in the agenda materials.

**IV. CONDUCTING BUSINESS**

**a. Governing Rules.** The rules contained in the current edition of *Robert’s Rules of Order Newly Revised* govern in all matters under Rule Regulating The Florida Bar 2-9.6.

**b. Meetings.** The committee will conduct at least 2 in-person meetings during the bar year. The chair may schedule additional meetings as necessary to conduct the business of the committee by any other commonly available method via electronic platforms provided by the bar.

1. When a meeting is held in-person, members of the committee are expected to attend in-person.

2. When a meeting is held by e-mail exchange, any committee vote on a proposal or other action proceeds as follows:

A. The proposal (or other proposed committee action) must be submitted to the full committee by e-mail.

B. The members of the committee are permitted a period of not less than 2 business days to make and respond to comments.

C. The chair may then call for a vote on the proposal or other matter, and members are allowed at least 48 hours to cast their votes.

D. If the chair determines that a shorter voting period must be established to meet a request by the Florida Supreme Court or otherwise for expedited or emergency consideration of the matter, the chair will announce the need for expedited consideration and the shortened voting deadline at the earliest practical opportunity. In no event will the chair establish a voting deadline that falls less than 24 hours after the announcement of the shortened voting period or that allows for less than a 24-hour period to vote.

3. When a meeting is held via an electronic platform provided by the bar, the chair must ensure that the platform provides members of the committee with substantially the same opportunity to make or oppose motions; to review proposals or other proposed committee actions; to make, receive, and respond to comments; and to vote on the issues under consideration as the members would enjoy at an in-person meeting.

**c. Quorum.** No business will be conducted unless a quorum is present at any meeting. A quorum is defined as 50% of the full committee membership.

**d. Voting.** A majority vote of the members present at a meeting, or participating in an e-mail vote, is sufficient to pass any action taken by the committee or a subcommittee except as otherwise required by these internal operating procedures. All voting is by open ballot, either orally or by show of hands in an in-person meeting, or orally or in writing if in an electronic meeting. All vote counts are recorded and included in the meeting minutes.

While meeting and voting by e-mail exchange is not favored, it is recognized that voting by e-mail exchange may be necessary due to an order of the supreme court that necessitates the committee act on an expedited or emergency basis. Conducting meetings and voting on proposals by e-mail exchange presents some unique challenges. Therefore, to accommodate the opportunity for committee members to participate in the full and fair exchange of ideas, to facilitate a full and frank discussion of the issues, and in the spirit of the requirement that all voting be by open ballot, when meetings are conducted by e-mail exchange members should comment by **“reply all”** so that all members receive the benefit of the member’s comment. Members will vote by email exchange but must vote only by **“reply to sender.”** Members should not “reply all” to record any e-mail exchange vote. Proxy and absentee voting are prohibited.

**e. Agenda.** The bar staff will prepare and circulate to all members, before each meeting, an agenda of matters to be considered at such meeting.

**f. Internal Operating Procedures.** These internal operating procedures are posted on the committee’s website.

**g. Attendance.** The committee is a working committee, and membership is a privilege not a reward. All members of the committee are expected to attend all meetings and to participate actively in the work of the committee and its subcommittees. The chair has the authority to grant excused absences for committee meetings, but only for good cause shown. Within any single bar calendar year, any member who has 2 unexcused absences from meetings for which at least 30 days-notice was provided will be deemed to have resigned from the committee, and the chair must notify the bar president of such resignation. Any member who loses membership in this manner may be reinstated to the committee, but only on successful appeal of the member's loss of membership to the bar president. The chair will consult or communicate annually with the president-elect of the bar and give recommendations as to the reappointment of any members who are coming to the end of their first term on the committee.

## **V. PROCEDURE FOR CONSIDERATION OF CHANGES TO RULES**

**a. Initiating Proposals.** Any proposal for a new rule or for an amendment to an existing rule must be submitted in writing to the chair. The chair has the authority to initiate proposals on the chair's own motion.

**b. Action on Initiation of Proposal.** On initiation of a proposal, the chair has the discretion to take 1 or more of the following actions:

1. Bring the matter before the committee to consider whether to approve, study, or reject the proposal.
2. Refer the matter first to a subcommittee to consider the proposal and to report back to the chair with a written recommendation.
3. Determine that the matter is beyond the scope of the committee's authority. This determination must be reported to the committee and is subject to override by a 2/3s vote of those present. If the chair determines that the proposal should be considered by some other body, such as another rules committee of the bar, the chair must refer the proposal to that body.
4. Determine that a portion of a proposal is beyond the scope of the committee's authority, in which case the chair must report that fact to the Committee and take one of the actions set forth in the above subsections with regard to the remainder of the proposal.

**c. Consideration by Subcommittee.** The subcommittee responsible for evaluating the proposal must, after consideration, submit its report on the proposal to the full committee in writing. If the subcommittee's decision is to take no action after evaluating the proposal it must report on the "No Action Recommended." Any changes to the rules proposed or recommended by the

subcommittee as a result of evaluating the proposal must be submitted in legislative format, accompanied by a statement of rationale and any supporting authorities. The subcommittee report must be submitted to the chair and bar staff for circulation to all members of the committee. The efficient functioning of the committee depends on the subcommittees making timely submissions and adhering to this rule.

**d. Full Committee Consideration of Proposed Changes.**

1. *Submission of Proposals to Full Committee.* Only proposals submitted in writing and circulated to all members of the committee before a meeting may be voted on by the committee. The chair of the reviewing subcommittee, or the subcommittee chair's designee, will present the proposal and the subcommittee's recommendation to the committee. If the subcommittee chair is not able to attend or participate, the subcommittee chair must ensure that another subcommittee member will attend the meeting to present the proposal.

2. *Reconsideration of Rejected or Defeated Proposal.* When a proposal is rejected, it will not again be reconsidered by the committee for a period of 1 year from the date of its rejection or defeat.

**e. Expedited Procedures.** This subsection sets forth the procedures for the committee to respond, on an expedited basis, to a time-sensitive issue, for consideration and submission of a proposal for expedited consideration by the supreme court or for any other issue which, in the discretion of the chair, requires a response or action on an expedited basis.

1. *When Invoked.* The chair may invoke expedited procedures if:

A. the supreme court requests a response from the committee on an expedited basis or in circumstances in which the committee would be unable otherwise to respond in adequate time; or

B. the chair otherwise deems it appropriate to invoke the same.

2. *Expedited Procedure Subcommittee.* On invoking this procedure:

A. the chair must activate the Expedited Procedure Subcommittee consisting of the chair, all vice chairs, as well as any other members selected by the chair.

B. the chair will inform the members of the full committee, by e-mail or other appropriate means, of the appointment of the Expedited Procedure Subcommittee, its purpose, and the identity of its

members, to enable any other committee members to attend or provide input to the Expedited Procedure Subcommittee.

C. The Expedited Procedure Subcommittee will promptly consider the issue and prepare a proposal or response in the manner required by these rules. The proposal or response will be circulated to the committee promptly, and no less than 3 business days before the next meeting of the full committee at which such proposal would be presented and considered if time permits.

3. *Expedited Meeting of the Committee.* If in the discretion of the chair time permits, an expedited meeting of the committee may be scheduled on prior notice under section IV. b. of these operating procedures. Voting is conducted in accordance with section IV. d. (Voting). All members are expected to actively participate.

4. *Committee Action by the Expedited Procedure Subcommittee.* If in the discretion of the chair and the Expedited Procedure Subcommittee, there is inadequate time to call a meeting of the committee to consider the proposal or response, the chair must inform the committee of that decision along with a deadline for members to submit any written comments or suggestions. The final written action by the Expedited Procedure Subcommittee must be immediately circulated to the committee and put on the agenda for discussion at the next meeting of the committee.

5. *Reporting of Committee's Action.* Any action taken under these expedited procedures must be promptly reported to the supreme court under Florida Rule of General Practice and Judicial Administration 2.140(e), if required by that rule. The following statement must be included in the report to the supreme court:

The Civil Procedure Rules Committee has filed this [comment] [response] under its expedited procedure, which allows for its expedited procedure subcommittee to act when time does not allow review and approval by the full committee. As required, the full committee was immediately notified that the expedited procedure subcommittee took this action.

## **VI. AMENDMENTS TO INTERNAL OPERATING PROCEDURES**

These internal operating procedures may be amended at any meeting of the committee provided a quorum as required by section IV. c. (Quorum) of these procedures is present; and, provided further that any proposed amendment is provided in writing to all members of the committee at least 30 days before a meeting.

## **VII. ORIENTATION**

All new members must attend orientation during their first year on the committee unless the Chair excuses a member from participating for good cause (*e.g.*, recent prior service on the committee, illness, etc.).

**a. Content.** Subject to the discretion of the chair, orientation may include the following:

1. Incoming committee chairs and bar staff will provide new members with an overview of the rule-making procedures and the operation of the committee;

2. Subcommittee chairs may provide new members with a brief overview of their subcommittee and the status of issues pending before their subcommittee;

3. Committee members who may assist in orientation.

**b. Subcommittee Service.** Committee members are encouraged to actively participate in the committee's work as much as their law practice will permit.

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