

**NEW HAMPSHIRE SUPREME COURT
ADVISORY COMMITTEE ON RULES**
Minutes of Friday, September 13, 2024 Meeting
NH Supreme Court
Supreme Court Courtroom
1 Charles Doe Drive
Concord, NH 03301

The meeting was called to order at 12:31 p.m. by Justice Donovan, Committee Chair. The following Committee members were present:

Abigail Albee, Esq., Hon. R. Laurence Cullen, Hon. N. William Delker, Justice Patrick E. Donovan, Sara Greene, Esq., Derek Lick, Esq., Representative Robert Lynn, Terri Peterson, Senator Donna Soucy, Janet Spalding, and Charles Stewart. Sherri Miscio, Secretary to the Committee, and Lisa Merrill, Recording Secretary, were also present.

1. ITEMS STILL PENDING BEFORE THE COMMITTEE

A. 2023-002, NH Rules of Criminal Procedure 11 (Pleas), 12 (Discovery, and 14 (Notices)

Justice Donovan referenced the revised proposal submitted by the Resident Communications Committee. The proposed rule change would ensure that the state's plea offer(s) are presented in writing to, and acknowledged by, the criminal defendant.

Justice Donovan asked for feedback from Committee members. Many agreed that there are already existing rules and procedures in place that address plea offers and plea negotiations.

On motion by Representative Lynn and seconded by Judge Delker, the Committee voted unanimously to not recommend adoption of the proposed rule amendment.

B. 2024-001, Supreme Court Rule 54(4)

Justice Donovan summarized the proposed amendment that seeks to amend the rule governing the role and responsibilities of administrative judges. A subcommittee was formed, met, and issued a report. Circuit Court Judge Ryan Guptill provided written input on behalf of the Circuit Court and recommended against adoption of the rule change.

A 60-day public comment period ended on August 19, 2024, and responses were in support of the proposed rule change.

On motion by Representative Lynn and seconded by Attorney Albee, the Committee voted unanimously to recommend the subcommittee's proposed amendment to the Supreme Court for adoption.

C. 2024-003, Supreme Court Rules 47 and 48

Attorney Jay Buckey submitted a proposed rule amendment to increase fees, expenses, and compensation rates to assigned counsel who accept cases representing indigent clients.

An invitation for public comment closed on August 19, 2024, with responses in support of the fee increase.

The Committee referenced concern expressed in comments submitted suggesting implementing a CAP increase commensurate with the hourly fee increase. The Committee noted that this would require a separate proposal that may include a public hearing.

On motion by Representative Lynn and seconded by Attorney Greene the Committee voted unanimously to recommend the amendment to the Supreme Court for adoption.

D. 2024-007, New Hampshire Rules of Criminal Procedure

In response to the Committee's June 14, 2024 request, Attorney Buckey submitted clarification about a proposed rule change regarding electronic signatures.

An invitation for public comment closed on August 19, 2024. All responses received supported the proposed rule change.

On motion by Representative Lynn and seconded by Mr. Stewart, the Committee voted unanimously to recommend the amendment as submitted by Attorney Buckey to the Supreme Court for adoption.

E. 2024-009, Supreme Court Rule 20

An invitation for public comment closed on August 19, 2024 regarding a proposed amendment submitted by Timothy Gudas, Clerk of the Supreme Court, that sets forth provisions concerning opinions or order on the merits, including citation form. One response was received in opposition to the amendment.

Judge Delker proposed revising the amendment by creating new paragraphs with the original designation. Following the meeting, Justice Donovan and Judge Delker revised the proposal by creating new paragraphs. See attachment.

On motion by Judge Delker and seconded by Mr. Stewart, the Committee voted unanimously to recommend the amendment with the changes noted above, to the Supreme Court for adoption.

2. NEW BUSINESS

There was no new business before the Committee.

3. MATTERS REFERRED BY JUSTICE DONOVAN TO THE COURT PURSUANT TO SUPREME COURT RULE 51(6)

A. 2024-010, Supreme Court Rule 35

An order was issued on July 18, 2024, with effective date of August 1, 2024, adopting technical amendment to Supreme Court Rule 35. This item was added to the agenda for informational purposes only. No discussion or action was taken.

4. REMAINING 2024 MEETING DATES

Friday, December 13, 2024

5. PROPOSED 2025 MEETING DATES

Friday, March 14, 2025

Friday, June 13, 2025

Friday, September 12, 2025

Friday, December 12, 2025

On motion made by Attorney Greene and seconded by Representative Lynn, the Committee voted to adjourn at 12:53 p.m.