

ARIZONA SUPERIOR COURT

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GARY L. HARRISON
CLERK, SUPERIOR COURT

21 SEP 30 PM 2:18

IN AND FOR THE COUNTY OF PIMA

BY: J. ORR, DEPUTY

IN THE MATTER OF:)	SUPERIOR COURT
)	ADMINISTRATIVE ORDER
RULES AND PROCEDURES FOR)	NO. 2021-38
NOMINATING COMMITTEE FOR)	(Amending AO 2014-33)
COMMISSIONERS FOR PIMA COUNTY)	
SUPERIOR COURT AND PIMA COUNTY)	JUVENILE COURT
JUVENILE COURT)	ADMINISTRATIVE ORDER
)	NO. 2021-07 (Amending 2014-08)
)	

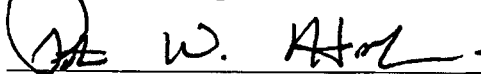
In an effort to create an open and defined process for selecting competent and respected members of the bar to serve as Commissioners of the Superior Court and the Juvenile Court of Pima County, and in compliance with Section 1-305 of the Arizona Code of Judicial Administration,

IT IS ORDERED that the attached amended Rules of Procedure for Nominating Committee for Commissioners for Pima County Superior Court and Juvenile Court are hereby adopted for use from this day forward.

DATED this 30th day of September 2021.



 JEFFREY T. BERGIN, Presiding Judge
 Pima County Superior Court



 PETER W. HOCHULI, Presiding Judge
 Pima County Juvenile Court

cc: Hon. Jeffrey T. Bergin, Presiding Judge, Superior Court
 Hon. Peter W. Hochuli, Presiding Judge, Juvenile Court
 Ronald Overholt, Court Administrator, Superior Court
 Tina Mattison, Court Administrator, Juvenile Court
 Clerk's Office – Juvenile Court
 Clerk's Office – Superior Court

**Rules and Procedures for Nominating Committee for
Commissioners for Pima County
Superior Court**

RULE 1. PURPOSE

The goal of the judicial nomination process is to select commissioners who have demonstrated a high degree of professional competence, who are highly respected by their peers, who are sensitive to the needs of and held in high regard by the communities they serve, who bring a diversity of background and experience to the bench, and, to the extent possible, who reflect the ethnic, racial and gender diversity of those communities. However, the primary consideration shall be merit.

RULE 2. COMMITTEE CHAIR AND MEMBERSHIP

a. The Associate Presiding Judge of Pima County Superior Court and the Associate Presiding Judge of Pima County Juvenile Court shall be co-chairs of the Judicial Selection Committee, and shall preside at all meetings of the Committee. In the event either Associate Presiding Judge is unavailable to serve, the Presiding Judge affected may designate another chairperson. To the extent deemed necessary, the co-chairs may enlist the assistance of the Human Resources Division of the Superior Court to assist in any of the Committee's work.

b. The Committee shall consist of ten members including the co-chairs. The members will include the Family Presiding Judge or a designated Family Bench representative, two additional judges, one commissioner, three attorneys and three non-lawyer members of the community. The members will be selected by the co-chairs with approval by the Presiding Judges upon a vacancy occurring for a position as commissioner in the Superior Court or its Juvenile Court division.

RULE 3. COMMITTEE MEMBER IMPARTIALITY

a. Committee members shall consider each applicant for a judicial office in an impartial, objective manner.

b. Committee members shall disclose to the Committee any relationship with an applicant (business, personal, attorney-client) or any other possible cause for conflict of interest, bias or prejudice. Committee members shall also disclose efforts to recruit an applicant. A Committee member is disqualified from voting on the application of a family member within the third degree of consanguinity or a present co-worker in the same company or firm as the Committee member. A Committee member shall disqualify himself or herself from voting on an application if voting on that application would present a conflict of interest. At the commencement of any Committee meeting where qualifications of any applicant are to be considered, the co-chairs shall inquire as to any basis of disqualification or disclosure pursuant to this rule.

c. A Committee member shall not be influenced other than by facts or opinion which are relevant to the judicial qualifications of the applicants. A Committee member shall promptly report to the

co-chairs any such attempt by any person or organization to influence the Committee member other than by fact or opinion.

d. A Committee member shall not individually communicate verbally or in writing with an applicant, from the time the application is submitted until the Committee conducts its final vote on the nominations and is dismissed, about the application, the contents of the application, the judicial position, the Commission, the nomination process or any other matters related to the judicial vacancy which is the subject matter of the application. (See exception in Rule 9(c))

RULE 4. COMMITTEE MEETINGS

a. Meetings of the Committee may be called by either co-chair by notice to the other members specifying the time and place of meeting. Such notice shall be given at least seven (7) days before the time specified, unless either co-chair determines that it is essential to hold an emergency meeting with less than seven days notice. The Committee may meet by electronic media concerning any matters.

b. Either co-chair shall issue a call for a meeting promptly upon learning of the existence or anticipated existence of a vacancy in a judicial office within the jurisdiction of the Committee. Meetings need not be public. More than one upcoming vacancy may be filled at the same time.

c. A quorum for a Committee meeting shall be a majority plus one of the Committee members (7 of 10).

RULE 5. RECRUITMENT OF APPLICANTS

a. Committee members may actively seek out and encourage applications from qualified individuals who will reflect the diversity of the community they will serve. Committee members may enlist the aid of community groups and organizations in this effort.

b. A Committee member shall under no circumstances commit in advance to vote for any applicant.

c. The Superior Court Human Resources Department shall insure that notice and outreach for the position is extensive including wide public notice by press releases and by mailing designed to encourage all those interested to submit an application. When feasible, such notice shall be given thirty (30) days or more before the deadline for applications, and it shall state how the application is to be obtained.

The notice of vacancy shall state that a Committee may, at its discretion, treat the applications filed for the vacancy that is the subject of the announcement as an application for any additional, similar vacancy or vacancies that become known to the Committee after the application has been submitted.

RULE 6. APPLICATION

- a. Every applicant shall complete and file with the co-chairs the "Application for Nomination to Judicial Office," as specified in the public announcement of judicial vacancy. The application shall include the applicant's certification that he/she is familiar with the ethical rules pertaining to the position sought.
- b. The applications of all unsuccessful applicants shall be destroyed or returned to the applicant after the selection process is completed. (See exception in Rule 6 (c) when more than one vacancy).
- c. Applications and documents on file for each judicial officer vacancy shall be provided to the members of the Committee at least seven days prior to the first Committee meeting.
- d. Applications and materials received regarding an applicant shall remain confidential throughout the nomination and appointment process for use only in accordance with these rules.

RULE 7. SCREENING OF APPLICATIONS AND SELECTION OF INTERVIEWEES

As soon as the application deadline has closed, copies of all applications received shall be provided to each committee member for review. The co-chairs shall schedule a screening meeting of the Committee no sooner than seven days after the close of the application period to review the background and qualifications of the applicants.

Screening Meeting

1. General: The Committee shall meet for the purpose of deciding which applicants are to be interviewed. The Committee shall discuss and evaluate the qualifications of each applicant. Each Committee member shall disclose any information outside of the application relied upon by that member in evaluating an applicant. If confidentiality has been promised to a source, Committee members shall consider whether less weight should be given to the information.
2. Opinion Comments: Opinion comments relied upon by a Committee member may be disclosed to the Committee and considered in evaluating an applicant if they are supported by a factual basis or circumstance, which is also disclosed to the Committee.
3. Anonymous Comments: No information from an anonymous source shall be considered by any Committee member or shared with any other Committee member or the Committee at any point in the screening process.
4. Selection of Applicants for Interviews: Each Committee member shall have five (5) ballots to cast in secret as to which applicants should be interviewed. Members may not cast more than one vote for any one applicant. The Committee shall decide the number of applicants to be interviewed, and that number of applicants who have received the highest number of votes cast shall be placed on the list of applicants to be interviewed.

RULE 8. INTERVIEWS OF APPLICANTS AND SELECTION OF NOMINEES

a. Public Notice and Comment: Names of applicants selected for interview and the date, place and time of the Committee meeting to interview applicants shall be disseminated to the public. The public, the judiciary and bar associations shall be invited to provide comments regarding these applicants. Comments about applicants should be made, if feasible, at least three working days before the interview meeting as follows: (1) in writing to the Committee for distribution to the Committee, or (2) verbally to Committee member(s).

b. Investigation of Applicants Selected for Interviews: Committee members shall further evaluate selected applicants by contacting as many individuals, community groups and other sources as deemed reasonable to obtain information on the applicants' life experiences, community activities and background. Committee members shall encourage sources to allow their names to be disclosed to the Committee and to the applicant, but may accept comments about an applicant from a source that requests confidentiality as to the Committee and/or as to the applicant.

When a comment given to a committee member concerning an applicant contains an opinion as to the applicant's character, fitness or competency, the committee member shall inquire as to the factual basis, circumstances and examples that support the opinion and as to names of others whom the source of the opinion believes might have knowledge about the opinion.

c. Communication with Applicants: Nothing in this rule prohibits either co-chair of the Committee from contacting an applicant if he or she determines that it is in the best interests of the public, the Committee, and the applicant, to make such contact.

d. Interview Meeting

1. General: The Committee shall meet for the purpose of interviewing selected applicants in order to compile a list of nominees to be forwarded to the Presiding Judges. The Committee shall schedule sufficient time prior to the interview of each applicant to discuss the results of Committee members' investigation and to determine whether any matters that were disclosed in the course of the investigation should be discussed with the applicant at the interview. No material and adverse information about an applicant that is known to a Committee member prior to the interview may be disclosed to the Committee after the interview occurs.

2. Opinion comments: Opinions that are not supported with factual bases or circumstances, or a second source shall not be disclosed at the Committee meeting. Opinions that are supported with factual bases or circumstances or a second source may be shared with the committee at the meeting, provided that the supporting information is also disclosed.

3. Anonymous comments: No information from an anonymous source shall be considered by any committee member or shared with other committee members or the committee at the interview meeting.

4. Conduct of Interviews: The Committee shall interview selected applicants. Committee members will endeavor to treat all candidates in a uniform manner by, for instance, asking the same core questions of each. Individualized questions and discussions are expected in order to develop information relative to the specific background of the individual candidate. A Committee member may question an applicant about comments made about the applicant for which confidentiality has been requested so long as the source of comment is not identified.

5. Deliberations of the Committee: The Committee shall hold an open and frank discussion regarding the qualifications of applicants interviewed. One of the co-chairs shall read the names of the applicants in alphabetical order and open the meeting to a discussion of each specific applicant's qualifications for judicial office. After this procedure has been followed for all the applicants, the co-chairs shall open the meeting to a general discussion of the relative qualifications of all the applicants. To encourage frank discussion, the substance of deliberations in executive session shall not be disclosed.

6. Selection of Nominees for Submission to the Presiding Judges: The co-chairs shall conduct a vote by Committee members as to which applicants interviewed should be nominated for referral to the Presiding Judges for appointment. Each applicant who receives a vote of the majority of Committee members present and voting shall be listed for consideration for referral to the Presiding Judges. Such list is only tentative and names may be added to or subtracted from it at any time by further majority vote of the Committee. The Committee by majority vote of members present and voting shall nominate as many applicants as it wishes for referral to the Presiding Judges. Generally no more than three applicants nor fewer than two should be referred for one position.

e. Communication after Interview Meetings: The co-chairs may designate a member or members or a member of court staff to notify those applicants not submitted as nominees to the Presiding Judges. If a Committee member receives new written information about a nominee submitted to the Presiding Judges after the interview meeting has adjourned, the Committee member shall forward the information to the co-chairs of the Committee and the co-chairs shall forward the information to the Presiding Judges, with a cover memorandum explaining that the information was not submitted in time for consideration by the Committee and the nominee had neither been questioned about nor responded to the information. If the information is verbal, the Committee member shall advise the source about his or her right to contact the Presiding Judges.

RULE 9. TRANSMITTAL TO THE PRESIDING JUDGE

The co-chairs shall deliver the names of the nominees, listed in alphabetical order, to the Presiding Judges. The co-chairs shall thereafter promptly inform the public of the names of the nominees.

In order to facilitate the Presiding Judges' selection of the appointee, the Committee file concerning each nominee shall be provided to the Presiding Judges along with the nominee list. In the event the Presiding Judges cannot agree upon a candidate to select, the Presiding Judge of the Superior Court shall select the candidate to fill the judicial position.