

David K. Byers  
Administrative Director  
Administrative Office of the Courts  
1501 W. Washington, Suite 411  
Phoenix, AZ 85007  
(602) 452-3301  
[Projects2@courts.az.gov](mailto:Projects2@courts.az.gov)

**IN THE SUPREME COURT**

**STATE OF ARIZONA**

In the Matter of

PETITION TO AMEND RULE 36,  
RULES OF THE  
SUPREME COURT OF ARIZONA

EXPEDITED CONSIDERATION  
REQUESTED

Supreme Court No. R-22-\_\_\_\_\_

RULE 36 PETITION

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, David K. Byers, Administrative Director, Administrative Office of the Courts, respectfully requests this Court amend Rule 36, Rules of the Supreme Court, concerning the appearance of members of the Committee on Character and Fitness at informal inquiries.

The Administrative Office of the Courts further requests, pursuant to Rule 28(h)(1), Rules of the Supreme Court, that this Court expedite its consideration of this petition for inclusion on the August 2022 Rules Agenda, as this matter is of statewide importance to members of the legal profession, the Committee on

Character and Fitness, and applicants seeking licensure in Arizona. Consideration of this petition during the August 2022 Rules Agenda would provide necessary guidance to committee members, staff, and applicants concerning their ability to virtually appear at informal inquiries.

**I. Purpose of the Proposed Rule Amendment.**

The purpose of the proposed amendment is to modify the current requirement that members of the Committee on Character and Fitness personally appear at informal inquiries to allow virtual appearance. Rule 36(e)(2), Rules of the Supreme Court (“The three members [of the panel for an informal inquiry] must attend the informal inquiry in person.”) In contrast, there is no personal appearance requirement for formal hearings.

During the pandemic, Administrative Order (AO) 2020-51 temporarily modified Rule 36 to permit members of the Committee on Character and Fitness to appear via “electronic attendance.” Allowing members to appear electronically has proven beneficial, giving members who otherwise would not be available due to scheduling or travel conflicts more flexibility to attend informal inquiries. This is especially helpful to members living outside of Maricopa County who, in the absence of a virtual appearance option, would either not be able to attend or would have to travel many hours, and possibly stay overnight, to attend an informal inquiry lasting as little as fifteen to thirty minutes.

It is not only committee members who have been successfully appearing for virtual, informal inquiries. Applicants and their attorneys have also been appearing virtually during the pandemic but will have the option to appear in person even if this request is granted. Applicants residing out-of-state have benefitted from the opportunity to appear virtually when in-person appearance would delay scheduling the inquiry or would involve great expense. Attorney Admissions staff have received almost no complaints from applicants about the virtual attendance of panel members.

If this request is granted, the potential for increased numbers of applications for committee membership, particularly from non-Maricopa County residents, has the potential for creating greater diversity in panel membership.

## **II. The Proposed Rule Changes.**

The proposed amendment to Rule 36(e)(2) simply strikes the language requiring members of the three-person panel to appear in person, thereby allowing attendance either in-person or virtually. A draft of the proposed amendment is provided in the attached *Appendix A*.

## **III. Request for Expedited Consideration.**

Compelling circumstances exist for this Court's consideration of this rule petition before the annual rules agenda. In 2020, this Court issued numerous Administrative Orders to facilitate the continued operation of the judicial system

during the pandemic. Among them was AO 2020-51, in which this Court modified the requirement of Rule 32(e)(2), Rules of the Supreme Court, that members of the Committee on Character and Fitness appear at inquiries in person, to permit telephonic or other electronic attendance for the duration of the health emergency.

As the judicial branch transitions to more normal operations, various Administrative Orders issued during the public health emergency have been modified or terminated. Given the now-recognized, non-pandemic benefits of AO 2020-51, it would be disruptive to the attorney admissions process to go back to requiring Committee members to appear at inquiries in person. Without the public health rationale for continuing AO 2020-51, the authorization of virtual appearances should become a permanent part of normal operations going forward. Accordingly, this petition to amend Rule 32(e)(2) considered on an expedited basis, under Rule 28(h)(1), Rules of the Supreme Court, in lieu of continuing to hold inquiries under AO 2020-51.

#### **IV. Conclusion.**

For the foregoing reasons, Petitioner respectfully requests that this Court consider this Petition to amend Rule 36, Rules of the Supreme Court, as proposed in the attached *Appendix A*, and do so on an expedited basis on its August 2022 Rules Agenda.



## APPENDIX A

Additions are shown by underline; deletions are shown by ~~striketrough~~.

### Rule 36. Procedure Before the Committee on Character and Fitness

(a) through (d) [No change]

#### (e) Informal Inquiries

1. [No change]

2. *Informal Inquiry Panel.* An informal inquiry panel must consist of three members of the Committee, including at least one attorney member and one public member, assigned by Committee staff on a rotating basis. The three members ~~must~~ may attend the informal inquiry either in person or virtually via electronic means. An informal inquiry panel will act for and on behalf of the Committee for all actions and decisions related to informal inquiries. The investigating member may participate in discussion with and questioning of the applicant during the informal inquiry but must not be part of the three-person panel and must not deliberate or vote at the conclusion.

3. through 5. [No change]

(f) through (h) [No change]