

1 The first proposed amendment "removes any requirement of state-by-state
2 reciprocity." (Petition at 5.) The second proposed amendment eliminates the
3 requirement that the attorney be engaged in the "active practice of law" for three
4 of the past five years. (Petition at 6.) The third proposed amendment "allows for
5 the admission of foreign-educated lawyers who are already licensed to practice
6 law in the United States." (Petition at 7.) The fourth proposed amendment
7 "tweaks how an applicant establishes that he or she possesses the character and
8 fitness to practice law in Arizona." (Petition at 7.) More specifically, the fourth
9 amendment proposes that "an applicant's successful completion of a character and
10 fitness examination in the jurisdiction in which the applicant is currently licensed
11 presumptively establishes that he or she possesses the character and fitness
12 necessary to practice law in Arizona." (Petition at 7.)

13 These proposed amendments would affect Rule 34(f)(1)(A)–(B), (D), (f)(2),
14 (f)(3), and (f)(5). The remaining criteria under Rule 34(f) are left unchanged.
15 (See Petition at 12–15; Appendix A at 9–13.)

16 **B. Response**

17 At its annual meeting in January 2024, the Committee discussed the
18 Petition. The Committee voted not to take any position regarding the first and
19 third proposed amendments. (See Petition at 6, 7.) As to those proposals, the
20 Committee concluded that eliminating reciprocity and the admission of foreign-
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1 educated students present policy issues for which the Committee did not have any
2 meaningful expertise to assist the Court. Nevertheless, the Committee notes that
3 the American Bar Association ("ABA") is currently soliciting comments on
4 proposals to change ABA Model Rule 5.5, which may address issues related to
5 these proposals. (See Working Group on Model Rule of Professional Conduct 5.5
6 Releases Issues Paper Seeking Comments,
7 [https://www.americanbar.org/groups/professional_responsibility/working-group-
9 on-mrpc5-5/](https://www.americanbar.org/groups/professional_responsibility/working-group-
8 on-mrpc5-5/).)
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11 The Committee voted to support, in part, the Petition's second proposed
12 amendment, which would eliminate the three-in-five active-practice requirement.
13 (See Petition at 6.) The Committee recommends retaining the requirement for at
14 least three years of active practice but supports eliminating the requirement that
15 such active practice occurs in the last five years. The Committee's vote was
16 based, in part, on concern that the preceding-five-year requirement may adversely
17 impact new parents who leave the practice of law to raise young children. The
18 Committee opposes the outright elimination of any practice requirement, however,
19 because the Committee believes that demonstrating at least three years of active
20 legal practice helps to demonstrate the fitness to practice law in Arizona. One
21 Committee member dissented. That member opposes any changes to the practice
22 requirement.
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1 The Committee unanimously voted to oppose the Petition's fourth proposed
2 amendment, which would provide that a successful character and fitness
3 examination in another jurisdiction presumptively establishes character and fitness
4 for Arizona. (*See* Petition at 7.) Admittedly, in most cases, bar membership in
5 good standing in another jurisdiction results in a successful character and fitness
6 process and admission to the Arizona bar. But, based on the Committee's
7 experience, an applicant's membership in another jurisdiction's bar is not sufficient
8 to establish, by clear and convincing evidence, that the applicant has "good moral
9 character" and the relevant traits and characteristics required under Arizona
10 Supreme Court Rule 36(b). Making bar membership in another jurisdiction
11 presumptive evidence of good moral character would shift the burden of proof to
12 the Committee and away from the applicant without sufficient justification.

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14 Since 2017, there are several examples in which the Committee's review
15 has uncovered significant character and fitness issues for applicants who are bar
16 members in good standing in another jurisdiction.

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18 For example, in 2017, an applicant to take the Arizona bar examination was
19 already admitted to the New Mexico bar. The Committee recommended denying
20 permission to sit for the bar based on findings of unlawful conduct, misconduct in
21 employment, and disregard of ethical or professional obligations.

1 In 2018, an admission-on-motion applicant was admitted to the practice of
2 law in Illinois, but the Committee recommended denying his application after
3 discovering unlawful conduct, false statements, disciplinary complaints, and acts
4 involving dishonesty, fraud, deceit, or misrepresentation.
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6 In 2019, a UBE-transfer applicant was already admitted in Missouri. The
7 Committee recommended denying the application after finding evidence of
8 disregard of ethical or professional obligations, and false statements.
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10 Another 2019 applicant applied to take the Arizona bar exam. That
11 applicant had been a member of the New York bar since 2003 but the Committee
12 recommended denying the application after discovering unlawful conduct, false
13 statements, disciplinary complaints, and acts involving dishonesty, fraud, deceit,
14 or misrepresentation.
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16 A 2020 applicant was admitted to practice in Utah and New Jersey, and was
17 eventually admitted on motion in Arizona, but the Committee's review revealed a
18 disregard of ethical or professional obligations, misconduct in employment,
19 disciplinary complaints, false statements, and acts involving dishonesty, fraud,
20 deceit, or misrepresentation.
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23 Another 2020 UBE-transfer applicant was a member of the New York bar.
24 The Committee recommended denying the application after finding that the
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1 applicant was serving a prison term, and had a history of academic misconduct,
2 unlawful conduct, and a disciplinary complaint.


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4 A 2021 bar-exam applicant was already admitted in New York. The
5 Committee recommended denying the application after uncovering disciplinary
6 complaints, a disregard of ethical or professional obligations, unlawful conduct,
7 substance abuse, and false statements.

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9 In 2022, an applicant to transfer his UBE score was admitted in West
10 Virginia. During the character and fitness process, the Committee uncovered
11 evidence of unlawful conduct, academic and employment misconduct, and false
12 statements.

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14 **Conclusion:**

15 Based on the above, the Committee supports the Petition, in part, as to the
16 Petition's second proposed amendment, and opposes the Petition's fourth proposed
17 amendment. The Committee takes no position on the first and third proposed
18 amendments.

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21 RESPECTFULLY SUBMITTED this 4th day of March, 2024.

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24 
25 James B. Morse Jr., Chair
26 Committee on Character and Fitness
27 Supreme Court of Arizona
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1 The foregoing posted to the
2 Court Rule Forum this 4th day of March, 2024:

3 <https://www.azcourts.gov/Rules-Forum/aft/1583>

4 COPY of the foregoing delivered
5 This 4th day of March, 2024:

6 Members of the Committee on
7 Character and Fitness
8 Committee on Character and Fitness
9 1501 West Washington Avenue, #104
10 Phoenix, AZ 85007

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