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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND RULE 82,
RULES OF THE ARIZONA
SUPREME COURT, JUDICIAL
ETHICS ADVISORY
COMMITTEE**

Supreme Court No. R-24-0047

**Comment of the Arizona
Judicial Ethics Advisory
Committee**

The Judicial Ethics Advisory Committee (“Committee”) officially takes no position regarding the petition filed by the Administrative Director of the Administrative Office of the Courts to amend Rule 82, Rules of the Arizona Supreme Court regarding the Judicial Ethics Advisory Committee. The Committee does wish to express concern regarding certain proposed changes to Rule 82.

First, the Committee wishes to reiterate the confidential nature of the ethics inquiries received by the Committee. *See* Rules 82(c)(2) (“All communications with staff concerning requests for advisory opinions shall be confidential . . .”) and Rule 82(d) (“The identity, organizational affiliation, and geographic location of persons requesting opinions shall be confidential.”). One of the proposed changes to Rule 82(g) states, “If the advisory committee decides to issue a formal advisory

opinion, the advisory committee chair must file the proposed opinion and all materials considered by the advisory committee in adopting the opinion with the Clerk of the Supreme Court for Supreme Court review.” The Committee believes that the proposed change should reflect that “all materials considered” may be redacted to keep the inquirer’s identify confidential.

Additionally, proposed Rule 82(f) formalizes the comment period that the Committee has followed as a policy guideline for the last several years. The Committee has found comments to be very useful in crafting opinions and values the candid feedback it has received from judicial officers and court staff with respect to the various issues it has considered. These candid comments would be part of “all materials considered” by the Committee in adopting an opinion, and under the proposed changes to Rule 82(g), these would need to be filed with the Court for their review. Presumably, this would make these comments public record. The Committee is concerned that filing these comments with the Court and allowing them to be public may have a chilling effect and cause the comments to be less candid than under the current procedure. The Committee would prefer to see such comments be submitted in a redacted format, keeping the commenters’ identities confidential.

Finally, the Committee has concerns regarding the ninety (90) day review period by the Court. Because the inquiries to the Committee pertain to the inquirer’s own prospective conduct, they are often time sensitive. Some inquirers forego seeking a formal written opinion from the Committee due to the length of time currently involved. Adding an additional three-month time period to the existing process may further chill some inquirers from seeking a formal opinion.

SUBMITTED the 27th day of June, 2024.

/s/ April P. Elliott
Staff Director, Arizona Judicial
Ethics Advisory Committee

Electronic copy filed this 27th day of June, 2024.

By: April P. Elliott