

APPENDIX A

COMMISSION ON JUDICIAL PERFORMANCE REVIEW'S PROPOSED AMENDMENTS to RULES OF PROCEDURE FOR JUDICIAL PERFORMANCE REVIEW IN THE STATE OF ARIZONA

(Additions are shown by underline; deletions are shown by ~~strikethrough~~)

Rule 1. through 4. [No changes]

Rule 5. Judicial Performance Review Process

(a) [No changes]

(b) Tools for Evaluating Performance.

(1) through (4) [No changes]

(5) *Other Evaluation Tools.*

(A) To obtain additional, reliable information about whether a judge who is invited to the executive session under Rule 4(b)(2) meets the performance standards for retention, the Commission may consider the following:

(Ai) courtroom observation, including review of video and audio recordings;

(Bii) the number of notices of change of judge;

(Ciii) review of written opinions or orders; or

(Div) case management statistics.

(B) If consideration of any of these other evaluation tools may provide the Commission with information relevant to the reason or reasons the judge has been invited to attend the executive session, the Commission should, to the greatest extent possible, obtain this additional information and share it with the judge before the executive session at which the judge has been invited to attend. To the extent necessary to consider these evaluation tools, the Commission members may learn the identity of a judge after the judge has been invited to attend the executive session.

(c) [No changes]

Rule 6. through 8. [No changes]

Rule 9. Commission Member Responsibilities

(a) [No changes]

(b) Judicial Member.

(1) A judicial member of the Commission is not eligible to participate in any matter concerning the judge's own performance except for the judicial member's self-evaluation and conference team requirements under Rule 8.

(2) A judicial member of the Commission who receives an invitation under Rule 4(b)(2) is prohibited from participating as a Commission member in the judicial performance review process for the balance of the then-current cycle but may participate in other Commission business or as a conference team member.

(c) [No changes]

Rule 10. Judge's Rights and Responsibilities

(a) Cooperation. A judge is expected to cooperate with the Commission and the judicial performance review and conference team processes under Rules 5 and 8, including and respond timely responding to communications from the Commission and Conference Team.

(b) through (c) [No changes]

(d) Data Validity. To the extent possible, the Commission is expected to use generally accepted statistical methods and techniques. If ~~any data or information~~ the Commission receives about a judge under Rule 5(c) was obtained or compiled in a manner ~~inconsistent with generally accepted statistical methods and techniques or the Commission deems it unduly prejudicial or otherwise unreliable,~~ the Commission must prominently disclose these facts and such concerns and the reasons it deems the data or other information is flawed unduly prejudicial or otherwise unreliable in its report under Rule 5(c)(1) and in any dissemination under Rule 7(b). ~~The Commission may not publish statistical data about a judge that does not have an appropriate confidence level. The Commission may choose not to publish data about a judge that the Commission deems unreliable.~~

(e) through (f) [No changes]

Rule 11. through 14. [No changes]