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Attorney Regulation Advisory Committee  
Arizona Supreme Court  
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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of:

PETITION TO AMEND  
SUPREME COURT RULE 34(f)

Supreme Court No. R-24-0028

Comment of the Attorney Regulation  
Advisory Committee

The Arizona Supreme Court’s Attorney Regulation Advisory Committee (“ARC”) respectfully submits this comment regarding Rule Petition R-24-0028. At its regular meeting on March 18, 2025, ARC voted unanimously to submit the following comment, opposing the Petition’s proposed circumvention of Rule 34’s current character and fitness requirements, and expressing concern as to rest of the Petition’s proposed changes to Rule 34.

**I. Introduction**

Rule 34(f) allows admission on motion as an alternative to admission via the Uniform Bar Exam (UBE). It provides a pathway to admission for applicants who meet certain Court-established criteria, including:

- Admission in a reciprocal jurisdiction (Rule 34(f)(1)(A));
- Primary engagement in the active practice of law for three of the last five years (Rule 34(f)(1)(A));
- Graduation from an ABA-accredited law school (Rule 34(f)(1)(B)); and
- Recommendation from the Committee on Character and Fitness (Rule 34(b), Rule 34(f)(1)(F)).

The Petition seeks to eliminate all four of these requirements. While the merits of each requirement can be debated, ARC is concerned about the cumulative impact on Arizona's bar if these changes occur simultaneously. If adopted, any lawyer in good standing (or retired in good standing) from any U.S. jurisdiction could be admitted on motion, making Arizona the most permissive bar in the country.

While the Petition's goal of expanding access to legal services is commendable, ARC fears that removing these long-standing safeguards could lead to unintended consequences, potentially harming the very individuals the Petition drafters aim to help.

## **II. Reciprocity Ensures Arizona's Standards Are Met.**

Rule 34(a) establishes a method for admission by motion as an alternative to admission by UBE examination, but in practice, admission by motion and the UBE are closely linked. Arizona does not permit admission by motion for applicants who have failed the Arizona UBE or failed to achieve Arizona's required score within

three years of applying (Rule 34(f)(4)). This aligns with the Court's policies on minimum UBE score requirements, including restrictions under the Court's Lawyer Apprenticeship Program. (AO 2024-148 (July 17, 2024)).

Arizona's UBE requirements are designed to ensure minimum legal competency and protect the public. These standards are reinforced by the state's reciprocity requirement. Currently, the only state Arizona reciprocates with that does not use the UBE is South Dakota, which has just over 2,000 attorneys. By contrast, non-reciprocal states that also do not use the UBE – such as California, Delaware, Florida, Hawaii, Louisiana, and Nevada – account for nearly 300,000 attorneys, over 20% of the national total. (See <https://www.americanbar.org/news/profile-legal-profession/demographics/>).

While lawyers from non-reciprocal, non-UBE states can still apply for admission under Rule 34, they are not eligible for expedited admission on motion. The Petition would eliminate this reciprocity requirement, granting immediate eligibility to hundreds of thousands of attorneys, regardless of whether they have passed the UBE with Arizona's qualifying score. Ironically, attorneys from UBE states may face a higher admission threshold than those from non-UBE states, as the Petition leaves Rule 34(f)(4) intact, maintaining the scaled score requirement for UBE applicants but eliminating any standardized testing requirement for others. The

Petition provides no mechanism for assessing the admission standards of non-reciprocal states or addressing jurisdictions with problematic admission practices.

For example, if the Petition's proposed changes are adopted, law school graduates in the state of Wisconsin, who do not need to pass a test of minimum competency such as the UBE to be admitted to the State Bar of Wisconsin, will effectively also have the option of becoming licensed Arizona attorneys, subject to Wisconsin's Character and Fitness review. (*See Wis. SCR 40.02, 40.03*). Without such safeguards, Arizona risks lowering its professional standards without adequate oversight.

### **III. Active Practice Requirements Promote Competence.**

Rule 34(f) currently requires applicants to have engaged in active law practice for at least three of the past five years. This ensures both experience and recency of legal practice. The Petition argues that newly licensed attorneys also lack experience, making the active practice requirement unnecessary. However, new attorneys from ABA-accredited schools must complete three years of legal education, earn passing scores on the UBE and the MPRE, and undergo Character and Fitness review – all demonstrating recent engagement with legal study and ethics.

By contrast, attorneys who have left the profession, temporarily or permanently, may experience significant skill deterioration. Arizona's active bar

members must complete at least 15 hours of continuing legal education (CLE) annually. Under the Petition's proposal, a long-retired attorney with no recent practice or CLE would be eligible for immediate admission to the Arizona bar.

#### **IV. Evaluating Non-ABA Law Schools Is the Supreme Court's Responsibility.**

The Petition would allow admission based on any foreign legal education deemed "substantially equivalent to a juris doctor degree" by any U.S. jurisdiction. This effectively delegates Arizona's authority over legal education standards to other states.

Currently, states have widely varying standards for licensing foreign-educated attorneys. For example:

- **New York** requires the foreign education to be based on English Common Law and substantially equivalent to an ABA-accredited J.D. (N.Y. Ct. R. 520.6(b)(1)(i)).
- **California** allows admission based on a foreign law degree deemed acceptable by its Bar Examiners, provided the applicant completes one year at an ABA-approved or California-accredited law school (CA ST Rules of State Bar, Rule 4.30).

The Arizona Supreme Court has historically retained control over non-ABA education approvals (*Application of Schlittner*, 146 Ariz. 198, 704 P.2d 1343

(1985)). The Petition would abandon this principle, outsourcing the decision to other jurisdictions without ensuring consistency in admission standards.

#### **V. The Petition Creates an Exception to Character and Fitness Review.**

Rule 34(b) currently requires all Arizona admittees to pass a Character and Fitness review, whether they are admitted by UBE, transferred UBE score, or motion. The Petition, however, would exempt attorneys in good standing from any other jurisdiction from this requirement—unless they have been suspended or disbarred.

ARC notes that the Committee on Character and Fitness has raised serious concerns about this exemption. That Committee’s comment highlights numerous problematic applications that, under the Petition’s framework, would bypass review entirely. For these reasons, ARC opposes the Petition’s proposed circumvention of the current character and fitness process.

#### **VI. Arizona Would Be the First State to Implement Such Sweeping Changes.**

Arizona has led in legal innovation, authorizing Legal Paraprofessionals and Alternative Business Structures with non-lawyer ownership. However, as the Petition acknowledges, no other jurisdiction has adopted the changes it proposes. (Petition at 9). Arizona would again be the first, but this time by becoming the most permissive bar in the country.

The American Bar Association (ABA) is currently studying cross-jurisdictional practice regulations. (See ABA Issues Paper on Model Rule 5.5: [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/issues-paper-for-comment-mr5-5.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/issues-paper-for-comment-mr5-5.pdf)). ARC believes it would be prudent to await the results of this study, ensuring Arizona's reforms align with national standards and best practices.

RESPECTFULLY SUBMITTED this 17th day of April, 2025.

A handwritten signature in black ink, appearing to read "John R. Lopez IV". The signature is written in a cursive, flowing style.

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Vice Chief Justice John R. Lopez IV, Chair  
Attorney Regulation Advisory Committee