



Arizona State Courts Building
1501 West Washington
Phoenix, Arizona

Friday, November 15, 2024

MEETING MINUTES

- Present:** Will Auther, Chair, Doug Cole, Vice-Chair, Benjamin Blink, Patricia Dean, Daniel Frias, Hon. Patrick Gard, Ann Halaby, Hon. Stacy Krueger, Hon. Danelle Liwski, Rose Marquez, Scott Overton, Sheryll Prokop, Gioia Sanderson, Henry Varga, and Hon. Randall Warner
- Present via Zoom:** John Burton, Elizabeth Lorenz, Jane Oh, Ellen Poole, Stephen Portell, Jon Savary, Kathryn Townsend, Hon. Garye Vasquez, and Hon. David Weinzweig
- Absent:** David Byrne, Terry Crites, Hon. Dean Fink, Eric Hammons, Elizabeth Rueter, and William Tanner
- Staff:** Blanca Moreno Calles, Lisa Hauser, and Emma Morgan

CALL TO ORDER

William Auther, Chair, called the meeting to order at 9:31 a.m. He welcomed all the Commission members present and noted a quorum for the record.

Chair Auther introduced two new members, Rose Marquez, a public member from Pinal County, and Elizabeth Lorenz, a public member from Coconino County. He asked the rest of the members to introduce themselves.

Approval Of Minutes

Chair Auther asked if any member wished to submit changes or additions to the drafted minutes of the meeting on August 16, 2024. **A motion to approve the August 16 draft minutes as modified was made.** The motion was seconded and passed unanimously.

Program Staff Report

Chair Auther asked Ms. Blanca Moreno Calles to provide an overview of the election results, the voter awareness campaign, and voter calls received during the election period. Ms. Calles shared that based on the unofficial election results, all judges were retained.

The voter awareness campaign results were not ready for the meeting but would be provided before the next meeting. Additionally, Ms. Calles shared that during the election period, the JPR office received emails and phone calls asking for the judges' political affiliation and how they rule on different political matters. During this election period, there was also an increase in phone calls

and emails due to the lack of information provided on the publicity pamphlet.

Different commission members shared that while they appreciate and consider the voters' concerns, they are providing all the information on the website to be transparent and to avoid taking up a lot of pages on the publicity pamphlet.

Chair Auther asked Ms. Calles to provide an overview of the marketing campaign put together by the advertising company. Ms. Calles stated that four billboard ads were rotating around Maricopa County, digital Google, and AZ family ads that would pop up when searching for judicial performance reviews. Facebook ads were not included as initially planned, and instead, those funds were used for additional billboards. The record was corrected to confirm the use of 12 billboards and digital ads, and no printed ads.

Discussion and Possible Decision on 2025-2026 JPR Meetings and Events Schedule

Chair Auther referred everyone to the draft meetings and event schedule in their meeting materials highlighting all tentative meetings for the new JPR cycle. He mentioned that the schedule included the three mandatory meetings in 2026. He opened the floor for any changes or modifications to the draft schedule. No changes were requested. **Vice Chair Doug Cole moved to approve the 2025-2026 schedule as submitted.** The motion was seconded and passed unanimously.

Discussion and Possible Decision Concerning Suggestions for Superior Court Staff Training on Survey Distribution

Chair Auther asked Ms. Calles to provide some background on the training for superior court staff regarding the survey distribution put together by JPR staff, and if this was for discussion only or if a decision needed to be made. Ms. Calles reminded the Commission that at the August meeting, a question was raised about how superior court staff was trained and what materials were provided. Ms. Calles showed the Commission a box of the materials provided to each superior court division which included the English and Spanish litigant surveys, juror surveys, slips to collect attorney emails, door signs to notify all individuals who appear in court that the judge was undergoing JPR evaluation, and detailed instructions. She mentioned that staff training was provided in person and that the instructions were discussed in detail to make sure that staff understood their responsibility during the JPR survey distribution process.

Judge Danelle Liwski mentioned that Pima County was making the survey training mandatory and would be holding two separate trainings so staff can attend one or the other.

Commission member Ben Blink asked if the documents provided to staff and the public had been reviewed since the last cycle and if not, perhaps a workgroup could review the process and materials. Chair Auther agreed and asked if there were any volunteers to work with Ms. Calles on updating the training materials. Ms. Calles reminded the Commission that any updates would need to be made before the end of the month since the first training session would take place the first week of January. Commission members asked for clarification on electronic and paper surveys for litigants and witnesses and electronic surveys for attorneys. Ms. Calles mentioned that before each cycle begins, the JPR office works with the Supreme Court's PIO to draft a message for the state bar to publish in their newsletter at the beginning of JPR and encourage attorneys to complete the surveys. She mentioned that there would also be a letter drafted by the Chief Justice that would be sent to all law firms encouraging them to whitelist the Docking Institute email address where the surveys are sent from to avoid them being caught in spam folders.

Chair Auther assigned the workgroup to be led by commission Mr. Blink and asked any member

who wished to help with this process to let Ms. Calles know. Ms. Calles asked if the entire Commission would need to meet to approve any changes suggested by the workgroup. Ms. Lisa Hauser, deputy general counsel, mentioned that the Commission would not need to meet if they authorized the workgroup to make changes deemed necessary to the training materials. **Commission member Henry Varga moved to authorize the workgroup led by commission Mr. Blink to work with staff on changes and updates to superior court staff training materials and finalize them as deemed necessary.** The motion was seconded and passed unanimously.

Before the meeting adjourned, Ms. Calles asked if any other members wished to help Mr. Blink with the workgroup to edit the training materials. Commission members Ellen Poole, Kathryn Townsend, Elizabeth Lorenz, and Judge Danelle Liwski volunteered for the workgroup.

Discussion of Draft JPR Rule Amendment and Possible Decision to Submit Rule Petition

Chair Auther gave an overview of the previous cycle's work and how some rules appeared to need changes or updates. The members were previously asked to review the current rules and submit any changes for discussion to Ms. Hauser so they could be discussed as a group before a potential rule petition was filed. He then asked Ms. Hauser to provide an overview of the key topics raised by the members.

Ms. Hauser began with the first proposal which would adjust Rule 4(b)(2) of the Rules of Procedure for Judicial Performance Review. Currently, conference team reports are confidential and available only to the judge and their presiding and chief judge. The proposed adjustment would allow the Commission to view the conference team report and use it as an evaluation tool when a judge issue was raised.

The second proposal identified the timing of the Commission's consideration of additional evaluation tools and if they should be requested before the invitational meeting.

The third proposal was to clarify if the judicial members of the commission could still participate in their self-evaluation process and other commission business that did not involve their performance review.

The fourth proposal would also clarify the cooperation of judges with communication and business from the Commission in a timely manner.

The fifth proposal was submitted to reflect the discussion about data validity and confidence level as discussed during the previous meeting.

Chair Auther reminded everyone present that the Commission does not make its own rules, these would be discussed and rejected or approved to move forward as a rule petition, but the Arizona Supreme Court has the final say and they will make the final decision as they see fit. Ms. Hauser shared that she would prepare the petition and submit it on behalf of the Commission by January to follow the Court's rule petition schedule.

Mr. Varga thanked Ms. Hauser for her work in collecting the rule change proposals. He made a motion to approve the suggested rule changes subject to any modifications made by the Commission and advance them to a rule petition. The motion was not seconded and after a few questions and discussion, Mr. Varga withdrew his motion. Vice-Chair, Doug Cole suggested that each proposal be discussed and voted on individually.

Chair Auther asked for discussion regarding the first proposal. Vice-Chair Cole began by sharing his opposition to this proposal as someone who volunteered in many conference teams. He stated that the conference team process should be kept for the self-improvement process of judges, so the discussion continued being honest. Changing who received the conference team report might hinder such openness. Chair Auther gave a brief overview of the conference team process for the new members. Judge Patrick Gard mentioned that he polled the judges in his court about the proposal and they all felt they rather provide the conference team report than be invited to speak to the Commission. They did not know it was confidential and would not be opposed to making it available to the Commission. The members continued discussing ideas on how the rule would be implemented, and how the referrals to the conference teams would be accessed to find continued trends without viewing information that would identify the judge. Other members opposed the proposal or any modification by stating that confidentiality helps the judges with their self-improvement process when meeting with their conference team members.

Discussion continued on the pros and cons of making the conference team report available to the commission. Vice-Chair Cole reiterated that the sole purpose of the conference team report is for self-improvement and as such did not support the proposed rule change. **Vice-Chair Doug Cole moved not to consider proposal one as written.** The motion was seconded and passed by a vote of 21-3.

Chair Auther asked for discussion regarding the second proposal. Ms. Hauser explained that the rule was proposed during the JPR Task Force as a tool for the Commission to use before the invitational meeting and it was drafted as a strong suggestion but not mandatory. Commission member Kathryn Townsend asked if implementing the use of these tools would reveal the judge's identity and if that needed to be explicitly noted on the rule proposal. Ms. Hauser confirmed that she would need to add verbiage about the anonymity of judges to the proposal. **Mr. Ben Blink moved to accept proposal number two as written.** The motion was seconded and passed by a majority of the vote. Judge Randall Warner clarified that by accepting this proposal, the Commission was directing staff to draft a rule change petition consistent with proposal two. Commission member Jon Savary asked to clarify if the discussion about the confidentiality of the judge would be part of the draft of this proposal and Chair Auther confirmed it would be.

Chair Auther mentioned that the third proposal was a clean-up for judicial members on the Commission and Vice-Chair Cole confirmed that it was a codification of procedures the Commission has done over the years. **Mr. Jon Savary moved to approval proposal three as written.** The motion was seconded and passed unanimously.

Chair Auther moved on with the fourth proposal and identified it as a clean-up proposal regarding the cooperation of judges with the works of the Commission. **Judge Danelle Liwski moved to approve the proposal as submitted.** The motion was seconded and passed unanimously.

Chair Auther asked if there was any discussion regarding the fifth proposal which was discussed at length at the November meeting. The proposal reflected the changes discussed and agreed upon at that meeting. The discussion included leaving an option for the Commission to choose not to publish data it deemed unreliable and members opposing that option so all data could remain public if it was considered at any point by the Commission. Judge Warner moved to forward the following rule petition language to proposal five and edit the last line of the paragraph to state "The Commission may choose not to publish data about a judge that the Commission deems unreliable." The motion was seconded. Before a vote was taken, Ms. Townsend asked if the motion included proposal five as written or if proposal five was amended with Judge Warner's motion. Judge Warner suggested approving the proposal and amendment separately, so he

withdrew his motion. **Vice-Chair Doug Cole moved to accept proposal five as written and submit it as a rule change to the Supreme Court.** The motion was seconded. **Judge Randall Warner proposed an amendment to the proposal to change the last sentence of the paragraph to state, “The Commission may choose not to publish data about a judge that the Commission deems unreliable.”** The motion was seconded. Chair Auther asked for a vote on the fifth proposal as written. The motion passed by a vote of 16-8. Chair Auther asked for a second vote on Vice-Chair Cole’s motion as amended by Judge Warner. The motion passed by a vote of 16-8.

Discussion and Possible Decision on Weighing Survey Responses from Different Respondent Groups

Chair Auther reminded the Commission that at the August meeting, a potential option of weighing surveys by different respondent groups was offered. Ms. Townsend mentioned that she would like more information from statistical experts and how they recommend doing this. Other members felt that weighing surveys from one group versus another would not help with responses or trust from the public. Chair Auther directed staff to contact Satrix Solutions and ask if they could attend the next meeting to provide more information on this subject. Staff was also directed to add this subject to the next meeting agenda.

Discussion and Possible Decisions Concerning Recommendations on the Conference Team Report Template

Chair Auther referred the Commission to the conference team report template that was not approved at the previous meeting as part of Judge David Weinzweig’s subcommittee. Ms. Calles mentioned that Commission member Bill Tanner had submitted a revised template for consideration, and it was provided in the materials. Commission member Sheryll Prokop suggested adding detail to the introduction paragraph. Commission member Daniel Frias also suggested adding lines to the first part of the discussion so it matched the rest of the questions and would not be missed. **Ms. Sheryll Prokop moved to approve the template with both suggested changes.** The motion was seconded and passed unanimously.

NEXT MEETING DATE/MEETING LOCATION

January 24, 2025, at 9:30 a.m.
Arizona State Courts Building
1501 W. Washington St. Phoenix, AZ

CALL TO THE PUBLIC

Chair Auther called for comment from the public. No public was present.

ADJOURNMENT

At 11:44 a.m., it was moved that the meeting be adjourned. The motion was seconded and passed unanimously.