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7 **IN THE SUPREME COURT**  
8 **STATE OF ARIZONA**

9 In the Matter of:

10 PETITION TO AMEND RULES  
36(e), 36(f), and 37(c), RULES OF  
11 THE SUPREME COURT

Supreme Court No. R-10-0019

**Comment of the Arizona Supreme  
Court Committee on Examinations  
on Petition to Amend Rules 36(e),  
36(f), and 37(c), Rules of the  
Supreme Court**

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14 A Petition has been submitted by David K. Byers, Director, Administrative  
15 Office of the Courts, to amend Rules 36(e), 36(f) and 37(c) of the Arizona Rules  
16 of the Supreme Court. The proposed amendment addresses the confidentiality  
17 and availability of records related to proceedings before the Arizona Supreme  
18 Court Committee on Character and Fitness.

19 Pursuant to Rule 33, Arizona Rules of the Supreme Court, the Arizona  
20 Supreme Court Committee on Examinations examines applicants and advises the  
21 Supreme Court and the Committee on Character and Fitness of those applicants  
22 who have passed the examinations required for admission to the practice of law.  
23 The Committee on Character and Fitness recommends to the Supreme Court for  
24 admission to the practice of law those individuals who, having passed the  
25 examinations required for admission, are deemed by the Committee to be  
26 qualified on the basis of character and fitness.

1 For the reasons set forth below, the Committee on Examinations opposes  
2 proposed revisions, as presented by the Alternative Proposal to R-10-0019, but  
3 joins with the Committee on Character and Fitness in proposing alternative  
4 language to Rule 37(c) as stated below. The proposed revision to Rule 37(c)  
5 would not change the various entities with which confidential information may be  
6 shared, but clarifies that records may be shared with committee members and  
7 regulatory boards for good cause shown.

8 With the revision proposed below, the revised rule proposed would read in  
9 full as follows:

10 **Rule 37. Miscellaneous Provisions Relating to Admissions**

11 (a) – (b) [no change]

12 (c) **Retention and Confidentiality of Records of Applicants for Admission.** The records of  
13 applicants for admission to the practice of law shall be maintained and may be destroyed in  
14 accordance with approved retention and disposition schedules pursuant to administrative order of  
15 the Court, pursuant to Rule 29, Rules of the Supreme Court. The records of ~~applicants and~~  
16 proceedings for admission and the proceedings of the Committee on Character and Fitness  
concerning an application for admission shall remain confidential, except as otherwise provided  
in these rules. Bar counsel shall be allowed access to the records of applicants for admission and  
the proceedings of the Committee concerning an application for admission in connection with the  
duties set forth in Rule 36(a)(2)(C). In addition, the Committee on Character and Fitness may

- 17 1. disclose the records of an applicant to
- 18 A. the National Conference of Bar Examiners;
- 19 B. the admitting authority of any other state to which the applicant seeks admission;
- 20 C. an attorney discipline enforcement agency;
- 21 D. an agency authorized to investigate the qualifications of judicial candidates;
- 22 E. a law enforcement agency, upon subpoena or good cause shown; or
- 23 F. the Arizona Supreme Court Committee on Examinations and other court agencies or  
24 regulatory boards, for good cause shown;
- 25 2. [No change in text.]
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- 3. [No change in text.]
  - 4. disclose to an applicant, ~~at the commencement of hearing~~ as required by rules 36(e) and 36(f), evidence to be used at the hearing, ~~as permitted by rules 36(e) (7) and 36 (f) (7).~~
- (d) – (e) [No change in text.]

**Conclusion**

The Arizona Supreme Court Committee on Examinations offers an additional change to Rule 37(c), Rules of the Supreme Court to clarify that the Arizona Supreme Court Committee on Examinations may gain access to the file of an applicant for admission for good cause.

RESPECTFULLY SUBMITTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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Co-Chair, Arizona Supreme Court  
Committee on Examinations

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1 Electronic copy filed with the  
2 Clerk of the Supreme Court of  
3 Arizona this \_\_\_\_ day of \_\_\_\_\_, 2011.

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