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5 On Behalf of the Committee on Examinations

6
7 In the Matter of

8 PETITION TO AMEND ARIZONA
SUPREME COURT RULES 35, 38,
9 AND 39

Supreme Court No. R-26-_____

PETITION

10 **I. INTRODUCTION**

11 Undersigned is filing this petition as Chair, and on behalf of, the
12 Arizona Supreme Court's Committee on Examinations (CoE). This petition
13 is being filed, in part, as a request for *Expedited Consideration and Emergency*
14 *Adoption* under Rule 28(h).

15 Effective January 1, 2026, Rule 35 was abrogated and replaced
16 with a restyled and amended version. In the process of implementing
17 amended Rule 35, CoE and Court staff determined that multiple elements of
18 this rule required clarification. Significantly, in the process of restyling Rule
19 35, CoE inadvertently omitted provisions related to applicant consent for
20 sharing bar exam results with law schools and the use of three-member CoE
21 panels to make ADA accommodation decisions. Both provisions are vital to
22 CoE and Attorney Admissions operations and are respectfully requested to

1 be considered on an expedited basis under Rule 28(h). As detailed herein, the
2 recent rule petitions relevant to these proposed amendments are R-25-0025
3 and R-19-0010.¹

4 The additional amendments to Rule 35 are intended to clarify (i)
5 applicant timeliness expectations related to paperwork submission under
6 Rule 35(h); (ii) what actions qualify as an “Attempt” under Rule 35(a)(3); (iii)
7 expectations regarding applicant conduct in following instructions before
8 and during the Bar Exam under Rule 35(i); and (iv) that non-ADA
9 “accommodation requests” are technically requests to bring prohibited items
10 into the bar exam facilities. If this Court will consider these proposed
11 amendments at the same time as those requested under Rule 28(h), CoE
12 respectfully requests that this Court consider this option. Alternatively, CoE
13 requests that this Court consider these proposed amendments under the
14 traditional Rule 28 amendment process.

15 The proposed amendments to Rules 38 and 39 are technical. As
16 a result of the R-25-0025 amendment, multiple Rule 34 sections were
17 renumbered and the Rule 38 and 39 cross-references to these sections were
18 not updated. The proposed amendments correct those oversights.

21 ¹ Although this 2019 rule petition was filed more than 5 years ago, the
22 rationale for one of the current Rule 35 amendments is discussed in detail in
this petition.

1 Appendix A to this petition contains a clean version of the
2 proposed text of the new rules, and Appendix B contains a redline of the
3 proposed changes to Rules 35, 38, and 39.

4 **II. PROPOSED AMENDMENTS**

5 **A. Rule 35 Amendments under 28(h) - Expedited Consideration**

6 1. Amendment to Rule 35(f)(4)(D).

7 This amendment reintegrates the requirement that CoE and
8 Attorney Admissions share applicant-specific bar exam result data with each
9 applicant's law school *as long as applicants consent to such sharing*. As
10 extensively detailed in R-19-0010, the two Arizona law school deans
11 originally requested to amend Rule 37 to enable this Court, CoE, and
12 Attorney Admissions to share extensive, non-anonymized, applicant-specific
13 bar exam data. Based on the R-19-0010 petition, this Court's Certification and
14 Licensing Division appears to have resisted this change, as applicant-specific
15 results are viewed as confidential. The compromise approach was to agree
16 to share this data if the applicants consent to the sharing. The present
17 amendment reintroduces this limitation on the sharing of applicants' results
18 data.

19 The reason for the *expedited* request is that bar exam results for
20 the February 2026 Uniform Bar Examination results will be released, at the
21 latest, on the second Friday of May.² At score release, the applicants'

22 ² <https://www.azbaradmissions.org/faq.action#220>

1 respective law schools will expect the non-anonymized bar exam data that
2 has been shared with them since 2020. CoE and Attorney Admissions wish
3 to ensure the necessary consent provisions are in place before the May score
4 release. The proposed amendment is requested to be evaluated under Rule
5 28(h) because this Court would not otherwise consider the proposed
6 amendment until well after the May 2026 score release.

7 2. Amendment to Rule 35(h)(1)(D).

8 This amendment *reintroduces* the option for the CoE to use a
9 three-member panel, comprised of CoE members, to consider ADA
10 accommodation requests. Until January 1, 2026, the CoE had this option to
11 consider ADA accommodation requests, which significantly improved CoE's
12 effectiveness and efficiency in rendering accommodation request decisions.
13 Without this provision, to consider accommodation requests, the CoE will
14 need a full committee quorum, which can be challenging to achieve for the
15 number of meetings required to consider all of the requests.³

16 CoE requests expedited consideration of this proposed
17 amendment because the July 2026 UBE cycle will soon open. Applications
18 for the July 2026 UBE cycle open on January 15, 2026, the timely filing
19 deadline is March 31, 2026, and the late filing deadline is April 30, 2026.
20 Accommodations decisions need to be completed by early June 2026, as the

21 ³ For example, for the February 2026 UBE cycle and the July 2025 UBE
22 cycle, the CoE reviewed 30+ and 40+ ADA accommodation requests,
respectively.

1 National Conference of Bar Examiners has an early June deadline for
2 ordering non-standard UBE materials (which are associated with granted
3 accommodation requests). CoE will consider accommodation requests
4 throughout this UBE cycle timeline, and three-member panels are vital to the
5 completion of this process. Expedited consideration under Rule 28(h) is
6 requested so that this proposed rule amendment can be implemented in time
7 to use three-member CoE panels for the anticipated large number of ADA
8 accommodation requests during the July 2026 UBE cycle.

9 **B. Non-Expedited Amendments to Rule 35**

10 Although the following proposed amendments are not as urgent
11 as the foregoing, CoE respectfully requests that the following be considered
12 at the same time as the foregoing amendments for sake of consistency in
13 amending Rule 35.

14 1. Amendment to “Attempt” under Rule 35(a)(3).

15 CoE proposes this amendment to clarify actions that constitute
16 an “Attempt” under Rule 35. As currently written, Rule 35 states that an
17 applicant *attempts* the UBE by “sitting for” the Bar Exam. It is unclear what
18 actions constitute “sitting for” UBE. The present amendments clarify that an
19 applicant who “viewed, accessed, or otherwise observed any portion of the
20 exam” has *attempted* the Bar Exam. This clarity is vital so that applicants
21 understand whether they have “attempted” a prior bar exam for the purpose
22

1 of seeking CoE permission to sit for their fifth or greater attempt, under Rule
2 35(g)(3).

3 2. Amendment to Rule 35(h) – Bar Exam Accommodations.

4 CoE proposes two substantive amendments to Rule 35(h), which
5 is related to Bar Exam Accommodations. The first clarifies that CoE has the
6 option to reject ADA accommodation requests as incomplete if applicants do
7 not timely submit paperwork for accommodation requests *or* fail to respond
8 to CoE or Attorney Admission requests for additional information by this
9 Court’s deadlines.⁴ The proposed amendment simply clarifies that
10 applicants have the obligation to timely submit paperwork and respond to
11 requests, with non-compliance resulting in rejection of the request.

12 The second proposed amendment clarifies the nature of health-
13 related, non-ADA-based requests received by CoE. Under current Rule
14 35(h)(2), these kinds of requests are framed as “non-disability
15 accommodation requests.” CoE seeks to clarify that these requests are not
16 accommodation requests; rather, these requests are for applicants seeking
17 permission to bring a prohibited item into the exam facilities. For example,
18 an individual with well-controlled diabetes may not require an ADA
19 accommodation (e.g., for extra time to complete the exam) but may need
20 permission to bring food or sucrose tablets into the exam facility to control

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22 ⁴ As established by Administrative Order 2024-078.

1 their blood sugar levels (food is a prohibited item).⁵ By making clear that
2 these requests are *not* ADA-based, CoE and Attorney Admissions can make
3 quick decisions about these cases and do not need to send the requests to our
4 accommodation experts for review, thereby saving time and state resources.

5 3. Amendment to Rule 35(i) – Bar Exam Conduct.

6 CoE’s final proposed amendment to Rule 35 seeks to clarify
7 expectations about applicant conduct during the Bar Exam. Newly amended
8 Rule 35 now includes a “Bar Exam Conduct” provision that includes an
9 explicit “Code of Conduct” (Rule 35(i)(1)). The proposed amendment
10 clarifies that, in addition to the currently enumerated expectations for Bar
11 Exam conduct, applicants are required to follow all verbal and written
12 instructions provided before and during the Bar Exam. Although this
13 concept and expectation should be inherently understood by all applicants,
14 by including this provision in Rule 35(i), the expectation for compliance with
15 instructions will be clear to all applicants.

16 C. Amendment of Rules 38 and 39

17 The amendments to Rules 38 and 39 are technical in nature and
18 are not substantive. In the process of prior rule changes (R-25-0024 Order
19 Abrogating and Replacing Rule 35 and Amending Rules 34 and 37, Arizona
20 Rules of the Supreme Court), the Rule 34 section detailing the Arizona Law
21

22 ⁵ Another common example is requests from new mothers seeking permission to bring lactation equipment and a cooler into the exam facility.

1 Course was moved from Rule 34(j) to Rule 34(i). The Rules 38 and 39 cross-
2 references to this Rule 34 section were not updated at the time of that prior
3 rule petition. The proposed amendment corrects that oversight.

4 Similarly, Rule 39(b)(1)(D) is updated to reflect cross-references
5 to the correct sections of Rule 34 and 35. As detailed above, prior
6 amendments to Rules 34 and 35 altered the numbering of sections related to
7 admission on motion, admission via transfer of bar examination score, and
8 admission via the Arizona Bar Exam. The proposed amendments correct
9 these oversights.

10 **III. CONCLUSION**

11 The CoE respectfully requests the Court amend the current
12 version of Arizona Supreme Court Rule 35 and adopt the proposed Rule 35
13 amendments as well as amendments to Rules 38 and 39 as set forth in
14 Appendix A.

15 DATED this 12th day of January, 2026.

16
17 By /Michael J. Donovan/

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