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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of

**PETITION TO AMEND RULE 34(e)
OF THE SUPREME COURT OF
ARIZONA**

In Re: R-26-0006

**ARIZONA PROSECUTING
ATTORNEYS’ ADVISORY
COUNCIL COMMENT IN
OPPOSITION**

The Arizona Prosecuting Attorneys’ Advisory Council (“APAAC”) respectfully submits the following comment opposing the Petition to Amend Supreme Court Rule 34(e). The proposed amendment impedes upon the judiciary’s authority, jeopardizes the integrity of Arizona licensure, negatively impacts the administration of justice by putting the public at risk, and it undermines the current efforts to grow the number of public service lawyers in rural areas.

The proposed amendment would chip away at the judiciary’s authority by eliminating meaningful discernment regarding who should be authorized to practice law in our state. The Arizona Supreme Court has long recognized that under the Arizona

1 Constitution, the “practice of law is a matter exclusively within the authority of the
2 Judiciary” and the “determination of who shall practice law in Arizona and under what
3 condition is a function placed by the state constitution in this court.” In re Creasy, 198 Ariz.
4 539, 541 (2000) (quoting Hunt v. Maricopa Cnty. Emp. Merit Sys. Comm’n, 127 Ariz.
5 259, 261–62 (1980)); See In re Miller, 29 Ariz. 582 (1926); In re Bailey, 30 Ariz. 407
6 (1926); State Bar of Arizona v. Arizona Land Title & Trust Co., 90 Ariz. 76 (1961). By
7 converting the evaluation from the Arizona Committee on Character and Fitness
8 (“Committee”) into a formality, our own judiciary’s authority is diminished. It allows an
9 individual to practice law before the Committee even completes its evaluation if the
10 attorney is in “good standing” in a different jurisdiction, without any association and
11 supervision from a licensed Arizona attorney. This is significantly different from the pro
12 hac vice rule which specifically requires association and supervision from a licensed
13 Arizona attorney. Rule 39(a), Ariz. S. Ct. R. Given that the proposed amendment makes
14 it easier for an attorney to get admitted fully, rather than pro hac vice, Rule 39(a) would be
nullified.

15 The proposed amendment also undermines the current efforts to grow the number
16 of public service lawyers in rural areas, negating its purported purpose of increasing
17 Arizonan’s access to legal services. Just last year, the Arizona Supreme Court established
18 the Government Law Admission Program (“GLAP”) in an effort to increase the number of
19 lawyers in government service.¹ The Administrative Order specifically stated that
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¹ Administrative Order No. 2025-25, Ariz. Sup. Ct. (Jan. 29, 2025).

1 government lawyers are vital to the operation of government and critical to our criminal
2 justice system.² Government lawyer positions are especially hard to fill, and even more so
3 in rural communities.³ The current framework allows out-of-state attorneys seeking to
4 practice with government agencies to have their applications processed more efficiently.
5 The Arizona Supreme Court also created the Arizona Lawyer Apprentice Program
6 (“ALAP”) in 2024 to specifically help expand the number of lawyers in public service
7 and/or in rural communities.⁴ These programs incentivize attorneys to accept public service
8 position, benefiting government agencies—especially those in rural areas—that face
9 persistent challenges in recruiting and retaining qualified attorneys.⁵ If this petition were
10 approved, that incentive would be eliminated, potentially exacerbating staffing shortages
11 within government agencies and undermining access to legal services in underserved
12 communities. Furthermore, the proposed amendment itself provides no incentive for
13 attorneys to specifically practice in rural areas, or practice in areas of public service, and
14 these are the areas where more attorneys are needed.⁶

² *Id.*

³ Nick Karmia, *Arizona Supreme Court Still Looking to Address Statewide Lawyer Shortages*, KJZZ Phoenix (March 3, 2025), <https://www.kjzz.org/kjzz-news/2025-03-03/arizona-supreme-court-still-looking-to-address-statewide-lawyer-shortages>.

⁴ *Arizona Lawyer Apprentice Program*, Arizona Judicial Branch, <https://www.azcourts.gov/cld/Arizona-Lawyer-Apprentice-Program> (last visited April 3, 2026).

⁵ ARIZONA CRIM. JUST. COMM’N, *FILL THE GAP REPORT* (2023), https://www.azcjc.gov/Portals/0/Documents/pubs/2023_FillTheGap_Report_Final.pdf; Disha Raychaudhuri & Karen Sloan, *Prosecutors Wanted: District Attorneys Struggle to Recruit and Retain Lawyers*, Reuters, April 13, 2022, <https://www.reuters.com/legal/transactional/prosecutors-wanted-district-attorneys-struggle-recruit-retain-lawyers-2022-04-12>.

⁶ Legal Services Corporation, *The Justice Gap: The Unmet Civil Legal Needs of Low-*

1 Additionally, under the amendment, an attorney could outrun complaints in other
2 jurisdiction if those complaints had not yet been formally turned into disciplinary
3 proceedings. They would be allowed to start practicing pending the Committee evaluation,
4 and they could retain dozens of clients during that time. If the Committee does end up
5 making an adverse fitness determination, the harm to the clients, the courts, and opposing
6 counsel would already be done. History has shown us that the unauthorized practice of law
7 harms individuals directly, and diminishes the public trust in the legal system overall.⁷ The
8 public's treatment within the court system affects their perception of the courts, and the
9 public's trust has already significantly diminished,⁸ and ultimately, public trust and
10 confidence are essential for our justice system to function effectively.⁹

11 Accordingly, for the reasons stated herein, APAAC respectfully opposed the
12 proposed amendment to Rule 35(e).

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14 *income Americans* (April 2022), [https://justicegap.lsc.gov/resource/section-4-seeking-and-](https://justicegap.lsc.gov/resource/section-4-seeking-and-receiving-legal-help)
15 [receiving-legal-help](https://justicegap.lsc.gov/resource/section-4-seeking-and-receiving-legal-help); See American Bar Association,
16 *Demographics, ABA Profile of the Legal Profession 2024* (2024),
17 <https://www.americanbar.org/news/profile-legal-profession/demographics>.

18 ⁷ Frances Johansen, *Lawyers and Consumers Lose when UPL Runs Rampant*, Arizona
19 Attorney Magazine, June 2001
20 [https://www.myazbar.org/AZAttorney/PDF_Articles/AZAT0601_UPL%20Challenges.p](https://www.myazbar.org/AZAttorney/PDF_Articles/AZAT0601_UPL%20Challenges.pdf)
[df](https://www.myazbar.org/AZAttorney/PDF_Articles/AZAT0601_UPL%20Challenges.pdf).

⁸ Ann A. Scott Timmer, *You Don't Trust Arizona Judges to Rule Without Politics. It's My*
Job to Fix That, AZCentral.com, (July 2, 2024),
[https://www.azcentral.com/story/opinion/op-ed/2024/07/02/arizona-supreme-court-chief-](https://www.azcentral.com/story/opinion/op-ed/2024/07/02/arizona-supreme-court-chief-trust-judges/74268348007/)
[trust-judges/74268348007/](https://www.azcentral.com/story/opinion/op-ed/2024/07/02/arizona-supreme-court-chief-trust-judges/74268348007/).

⁹ See *Arizona Court Strategic Agenda 2024-2029*, Arizona Supreme Court
<https://www.azcourts.gov/AZ-Courts/Strategic-Agenda> (last visited April 6, 2026)
("Maintaining public trust and confidence plays a critical role in the success of our justice
system....").

1 Respectfully submitted this 30th day of April, 2026.

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3 /s/ Elizabeth Burton Ortiz
4 Elizabeth Burton Ortiz