



To: Supreme Court of Arizona
From: State Bar of Arizona
Date: 3/29/2018
RE: R-18-0025, Rule 44(d), Arizona Rules of the Supreme Court

This comment is submitted to briefly address two substantive issues raised in attorney Mark I. Harrison's comment on the proposed revisions to the Rules and Regulations of the Arizona Board of Legal Specialization. The State Bar takes this opportunity to call the Court's attention to where in the current draft of the Proposed Rules and Regulations these issues are addressed.

The Due Process Issue: A concern was raised about potential violations of an applicant's right to due process, based on the anonymous and confidential nature of statements of reference provided by peer reviewers. However, this concern is addressed by subsection VI(E)(1) of the proposed Rules. This subsection permits an applicant to request the contents of the application and statements of references, and allows the applicant to disclose them (including identity of the reviewer) to his or her attorney.

The Objective Criteria Issue: Subsection V(F) of the proposed Rules states that requirements for certification include, *inter alia*, professionalism (as defined by the Lawyer's Creed of Professionalism) and knowledge of ethics pertaining to the applicant's specialty area. However, the proposed revision to section V(G) states that the Advisory Commission may also request from the applicant "specific information concerning any form of disciplinary sanction imposed under Rule 60, Ariz. R. Sup. Ct." The standards for each certification practice area have already been revised accordingly, stating that only imposition of a discipline sanction under Rule 60 within the five-year period preceding the date of application may be grounds for denying, suspending, or revoking certification. The standards explicitly forbid the consideration of "diversion, dismissals, or allegations of misconduct that did not result in a disciplinary charge."

Respectfully submitted,

A handwritten signature in cursive script that reads "Lisa M. Panahi".

Lisa M. Panahi
General Counsel
State Bar of Arizona