June 26, 2020

To: Clerk of the Supreme Court
1501 West Washington St., Room 402
Phoenix, Arizona 85007

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Comments regarding Arizona Supreme Court No. R-20-0035 Petition to Amend the Procedures for Nominations for the Independent Redistricting Commission

I am opposed to some of the changes proposed in Arizona Supreme Court No. R-20-0035, Order Amending Rules 128-134 of the Arizona Rules of the Supreme Court on an Emergency Basis as submitted by the Honorable Robert M. Brutinel, chair of the Commission on Appellate Court Appointments (CACA) on April 2, 2020. These rules pertain to the Independent Redistricting Commission (IRC) nomination procedures.

I strongly believe a democratic government depends upon informed and active participation, by our citizens, at all levels of government. And also, governmental bodies must protect our (the citizens') right to know by making all public records accessible to us.

I'm very interested in the Independent Redistricting Commission to ensure that members of the commission are chosen because they are knowledgeable, fair and non-partisan in their views. Proposition 106 was approved by Arizona voters in 2000 to create the IRC. This was a bipartisan citizen initiative. Continuing the independence and integrity of the redistricting process is a very high priority for me and many of my feloow citizens.

The fundamental basis of the IRC is to stop the influence of partisan politics in redistricting and conduct an independent and transparent process to draw legislative and congressional district maps. And, as you know, these maps are used for voting which is the most treasured component of our democracy. And, because of this, it is essential that Arizona citizens have confidence in the process used to draw these maps. It is crucial that each Arizona citizen is assured that they have all the information about the IRC and feel confident that there are no secret agendas which could influence this the process.

I understand the Commission on Appellate Court Appointments (CACA) is charged with reviewing applicants and creating a pool of potential members for the Arizona IRC. This requires it to be especially transparent in its procedures. This responsibility is especially important and reaches to the core of our constitution to ensure all nominees are truly "…committed to applying the provisions of this section in an honest, independent and impartial fashion and to upholding public confidence in the integrity of the redistricting process." (Ariz. Const., Art.IV, Sec. 1(3).

The proposed revisions have raised a great deal of concern as to how the CACA will remain impartial in future IRC applicant reviews. The process to do this on an "emergency" basis to meet an annual deadline, truly creates the impression that something must be seriously wrong with the past process. When, in fact, there is no evidence that this is the case and that more confidential information would result in a fairer outcome. The 2011 IRC was generally praised for creating fair and balanced districts. We, as Arizonans, treasure our right to know what our government is doing and there are strong laws to ensure that this is the case.

The proposed revisions create "confidential" information, which to me means lack of transparency and the opportunity for partisanship. This is highlighted, specifically in 3 areas that truly concern me: (1) a new confidential section on the application form; (2) information designated by third parties as "confidential"; and (3) personal notes and procedural emails created by members of CACA. These proposed rules will make it extremely difficult for citizens to trust the candidate review process and remain confident that the best candidates are included in the pool of nominees. **These revisions should not be adopted.**

The purpose of the new, confidential section on the application form (Revised Rule 131(d)) is not defined. There is also no detail as to the boundaries of what information may be included here and declared confidential by the applicant. This provision only serves to raise suspicions among us citizens that we are not hearing all the applicants' details, qualifications and their reasons for applying. Applicants for such a powerful and consequential position should not have the ability to conceal information about themselves. Previously, and reasonably, only the names and contact information for people serving as references for the applicant was withheld from the public.

The ability of a third party to submit comments and to designate them as confidential in Revised Rule 131(e)(1) is the most destructive of the three new rules. It opens the door to special interests. In addition, this influence would be concealed and allow people of power and prominence to have their voices heard with a large and disproportionate influence. This process indicates that a governor or a legislator or even a president could take part in decision-making without our citizens' knowledge. In addition, untrue and unsubstantiated comments could be submitted about a nominee and concealed from the public. And these individuals' names, who make the comments, also would be confidential, leaving the public with no way to know who provided information to CACA or the information's validity.

Placing personal notes and procedural emails into the confidential category (Revised Rule 131(e)(2)-(3)) obscures the review process and creates questions about the impartiality and fairness of the CACA process. It gives commission members the ability to conceal information based on their interpretation of whether their email is practical or substantive. It invites secrecy where openness and transparency should be the norm. Public records law is circumvented by this ruling. Normally, the commission member notes, about this process, are public record. **There is no justification for this ruling.**

Overall, the suggested revisions create an undesirable precedent for rules governing this and other commissions. **Secrecy is the enemy of the people. Do not start down this road.**

I also want to note Judge Brutinel's conflict of interest as he both submits and approves the proposed changes. There is no independent judgement as to whether the changes are substantial or not. To make these revisions on an emergency basis only leads to further suspicion of motive.

In today's climate of mistrust of government agencies, it is critical that the independence, integrity and transparency of the redistricting process be preserved. The Commission on Appellate Court Appointments must not contribute to doubts about the IRC process by creating categories of secret information which is not available to the public.

I strongly urge that the above proposed changes are not adopted permanently and that the original language on Rule 132 (2010) be retained.

Kind Regards,

Joan Knipe