

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-16-0013
RULE 32, RULES OF THE SUPREME)
COURT)
)
)
) **FILED: 09/02/2016**
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_____)

ORDER

AMENDING RULE 32, RULES OF THE ARIZONA SUPREME COURT

A petition having been filed proposing to amend Rule 32, Rules of the Arizona Supreme Court, and comments having been received, upon consideration,

IT IS ORDERED that Rule 32, be amended in accordance with Attachment A hereto, effective January 1, 2017.

IT IS FURTHER ORDERED that the implementation of Rule 32(e) is subject to the provisions set forth in Attachment B hereto, effective January 1, 2017.

DATED this 2nd day of September, 2016.

_____/s/
SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

Mark E Meltzer

Hon. Rebecca White Berch

Aubrey Laine Thomas

Lisa S Bruno

Jimmie D Smith

Brian Y Furuya

Mauricio Hernandez

Paul V Avelar

Bryan B Chambers

Karyl Krug

John A Furlong

Richard W Morris

James Martin Manley

ATTACHMENT A*

Rule 32. Organization of State Bar of Arizona

(a) Organization

~~1. *Establishment of state bar.* In order to advance the administration of justice according to law, to aid the courts in carrying on the administration of justice; to provide for the regulation and discipline of persons engaged in the practice of law; to foster and maintain on the part of those engaged in the practice of law high ideals of integrity, learning, competence and public service, and high standards of conduct; to provide a forum for the discussion of subjects pertaining to the practice of law, the science of jurisprudence, and law reform; to carry on a continuing program of legal research in technical fields of substantive law, practice and procedure, and to make reports and recommendations thereon; to encourage practices that will advance and improve the honor and dignity of the legal profession; and to the end that the responsibility of the legal profession and the individual members thereof may be more effectively and efficiently discharged in the public interest, and acting within the powers vested in it by the constitution of this state and its inherent power over members of the legal profession as officers of the court, the Supreme Court of Arizona does hereby perpetuate, create and continue under the direction and control of this court an organization known as the State Bar of Arizona, such organization which may be a non-profit corporation under Chapter 5 of Title 10 of the Arizona Revised Statutes, and all persons now or hereafter licensed in this state to engage in the practice of law shall be members of the State Bar of Arizona in accordance with the rules of this court. The State Bar of Arizona may sue and be sued, may enter into contracts and acquire, hold, encumber, dispose of and deal in and with real and personal property, and promote and further the aims as set forth herein and hereinafter in these rules.~~

~~2. *Precedence of rules.* The qualifications of attorneys at law for admission to practice before the courts of this state, the duties, obligations and certain of the grounds for discipline of members, and the method of establishing such grounds, subject to the right of this court to discipline a member when it is satisfied that such member is not mentally or morally qualified to practice law even though none of the specific grounds for discipline set forth in these rules exist, shall be as prescribed in these rules pertaining to admission and discipline of attorneys.~~

(a) State Bar of Arizona. The Supreme Court of Arizona maintains under its direction and control a corporate organization known as the State Bar of Arizona.

1. *Practice of law.* Every person licensed by this Court to engage in the practice of law must be a member of the State Bar of Arizona in accordance with these rules.

2. *Mission.* The State Bar of Arizona exists to serve and protect the public with respect to the provision of legal services and access to justice. Consistent with these goals, the State Bar of Arizona seeks to improve the administration of justice and the competency, ethics, and

professionalism of lawyers practicing in Arizona. This Court empowers the State Bar of Arizona, under the Court's supervision, to:

A. organize and promote activities that fulfill the responsibilities of the legal profession and its individual members to the public;

B. promote access to justice for those who live, work, and do business in this state;

C. aid the courts in the administration of justice;

D. assist this Court with the regulation and discipline of persons engaged in the practice of law; foster on the part of those engaged in the practice of law ideals of integrity, learning, competence, public service, and high standards of conduct; serve the professional needs of its members; and encourage practices that uphold the honor and dignity of the legal profession;

E. conduct educational programs regarding substantive law, best practices, procedure, and ethics; provide forums for the discussion of subjects pertaining to the administration of justice, the practice of law, and the science of jurisprudence; and report its recommendations to this Court concerning these subjects.

(b) Definitions. [No change in text.]

(c) Membership.

1.-5. [No change in text.]

6. *Judicial Members.* Judicial members shall be justices of the Supreme Court of Arizona, judges of the Court of Appeals and Superior Court of Arizona and of the United States District Court for the District of Arizona, and retired justices and judges who are eligible for temporary judicial assignment and are not engaged in the practice of law. Judicial membership status shall likewise be accorded to members of the ~~state bar~~ State Bar who are full-time commissioners, city or municipal court judges, tribal court judges, judges pro tempore or justices of the peace in the state of Arizona not engaged in the practice of law, or justices or judges of other courts of record of the United States or of the several states. Judicial members shall hold such classification only so long as they hold the offices or occupations entitling them to such membership or are retired from the offices or occupations entitling them to such membership, are eligible for temporary judicial assignment, and are not engaged in the practice of law. Judicial members shall be entitled to vote but shall not be entitled to hold office. Judicial members shall have such privileges, not inconsistent with the rules of this court, as the board provides. A judicial member who retires or resigns from the bench and seeks to engage in the practice of law shall must become an active member subject to all provisions of these rules.

7. [No change in text.]

8. *Computation of Fee.* The annual membership fee shall be composed of an amount for the operation of the activities of the ~~state bar~~ State Bar and an amount for funding the Client Protection Fund, each of which amounts shall be stated and accounted for separately. Each active and inactive member, who is not exempt, shall pay the annual Fund assessment set by the ~~court~~ Court, to the ~~state bar~~ State Bar together with the annual membership fee, and the ~~state bar~~ State Bar shall transfer the fund assessment to the trust established for the administration of the Client Protection Fund. The State Bar shall conduct any lobbying activities in compliance with *Keller v. State Bar of California*, 496 U.S. 1 (1990). Additionally, a member who objects to particular State Bar lobbying activities may request a refund of the portion of the annual fee allocable to those activities at the end of the membership year.

9.–12. [No change in text.]

(d) Powers of Board. The ~~state bar~~ State Bar shall be governed by the Board of Governors, which shall have the powers and duties prescribed by this ~~court~~ Court. The board shall:

1. Fix and collect, as provided in these rules, fees approved by the ~~supreme court~~ Supreme Court, which shall be paid into the treasury of the ~~state bar~~ State Bar.

2. Promote and aid in the advancement of the science of jurisprudence, the education of lawyers, and the improvement of the administration of justice.

3. Approve budgets and make ~~Make~~ appropriations and disbursements from funds of the ~~state bar~~ State Bar to pay ~~necessary~~ necessary expenses necessary for carrying out its functions.

4. Formulate and declare rules and regulations not inconsistent with ~~these rules~~ Supreme Court Rules that are, necessary or expedient to enforce these rules, and by rule fix the time and place of ~~annual meetings of the state bar~~ State Bar meetings and the manner of calling special meetings thereof, and determine what number shall constitute a quorum of the ~~state bar~~ State Bar.

5. ~~Appoint such committees, officers and employees it deems necessary or proper and prescribe their duties. Compensation of employees shall be as determined by the board.~~ Appoint a Chief Executive Officer/Executive Director to manage the State Bar's day-to-day operations.

6. Appoint from time to time one or more executive committees composed of members of the board and vest in the executive committees any powers and duties granted to the board as the board may determine.

7. Prepare an annual statement showing receipts and expenditures of the ~~state bar~~ State Bar for the twelve preceding months. The statement shall be promptly certified by the secretary-

treasurer and a certified public accountant, and transmitted to the ~~chief justice~~ Chief Justice of this ~~court~~ Court.

8. Create and maintain the Client Protection Fund, as required by this court and authorized by the membership of the ~~state bar~~ State Bar on April 9, 1960, said fund to exist and be maintained as a separate entity from the ~~state bar~~ State Bar in the form of the Declaration of Trust established January 7, 1961, as subsequently amended and as it may be further amended from time to time by the board. The trust shall be governed by a Board of Trustees appointed by the Board of Governors in accordance with the terms of the trust and the trustees shall govern and administer the Fund pursuant to the provisions of the trust as amended from time to time by the board and in accordance with such other procedural rules as may be approved by the Board of Governors.

9. ~~Have the power to form a non profit corporation under Chapter 5 of Title 10 of the Arizona Revised Statutes upon a majority vote of the Board of Governors.~~ 10. Implement and administer mandatory continuing legal education in accordance with Rule 45.

10. Administer a Board of Legal Specialization to certify specialists in specified areas of practice in accordance with Rule 44.

(e) ~~Composition of Board.~~

1. ~~For the purposes of these rules the state is divided into eight bar districts, numbered one through eight as follows:~~

A. ~~Mohave, Navajo, Coconino and Apache counties shall be district 1.~~

B. ~~Yavapai county shall be district 2.~~

C. ~~Gila, Graham and Greenlee counties shall be district 3.~~

D. ~~Cochise county shall be district 4.~~

E. ~~Pima and Santa Cruz counties shall be district 5.~~

F. ~~Maricopa county shall be district 6.~~

G. ~~La Paz and Yuma counties shall be district 7.~~

H. ~~Pinal county shall be district 8.~~

2. ~~There shall be a Board of Governors of the state bar which shall consist of twenty six (26) members, all authorized to vote. Four (4) members of the Board of Governors shall be designated as "public member." The public members shall not be members of the state bar, and shall not have, other than as consumers, a financial interest in the practice of law. Public members shall be appointed by the Board of Governors for terms of three (3) years. No more than two (2) public members may be from the same district. Public members may be~~

~~reappointed for one additional term of three (3) years. No individual may serve more than six (6) years as a public member of the Board of Governors. There shall be three (3) at large members on the Board of Governors appointed by the Supreme Court for terms of three (3) years. Nineteen (19) members of the Board of Governors shall be active members in good standing of the state bar designated as "elected members" and elected as follows:~~

~~A. From Bar District 1, one member.~~

~~B. From Bar District 2, one member.~~

~~C. From Bar District 3, one member.~~

~~D. From Bar District 4, one member.~~

~~E. From Bar District 5, three members.~~

~~F. From Bar District 6, nine members.~~

~~G. From Bar District 7, one member.~~

~~H. From Bar District 8, one member.~~

~~I. From the Young Lawyers Section of the state bar, its President.~~

~~3. Beginning with the 2004 annual meeting, and every three (3) years thereafter, the Governors shall be elected from Bar Districts 1, 3, 4, 5 and 7 for terms of three (3) years. Beginning with the 2005 annual meeting and every three (3) years thereafter, the Governors shall be elected from Bar Districts 2, 6 and 8 for terms of three (3) years. Nominations for Governors shall be by petition signed by at least five (5) active members, and each candidate named in a petition and all members signing such petition shall have their principal place of business in the district the candidate is nominated to represent. Only members who have been admitted to practice before the Arizona Supreme Court for not less than five (5) years are eligible to be elected members of the Board of Governors. The election shall be by ballot. The ballots shall be mailed to those entitled to vote at least thirty (30) days prior to the date of canvassing the ballots, shall be returned by mail or through electronic voting means and shall be canvassed at the ensuing annual meeting. In other respects the election shall be as the Board of Governors by rule directs. Only active and judicial members shall be entitled to vote for the Governor or Governors of the Bar District in which such active and judicial members respectively have their principal place of business.~~

~~4. The President of the Young Lawyers Section shall be elected by a mail ballot to all members of the Section, such ballot announcing to all members of the Section that the President of the Young Lawyers Section will hold a voting position on the Board of Governors. The election of the President of the Young Lawyers Section shall be on a yearly basis and shall be completed within ninety days of the annual meeting.~~

~~5. Elected members of the board of governors shall hold office until their successors are elected and qualified. Should a member of the Board move his or her principal place of business from the district he or she represents, his or her seat shall be declared vacant. A vacancy among the elected members of the Board of Governors shall be filled by the remaining members of the Board. A vacancy in a public member position shall be filled by the Board of Governors. A vacancy in an at large member position shall be filled by the Supreme Court.~~

(e) Composition of the Board of Governors. The board is composed of sixteen elected governors and ten appointed governors, as provided by this Rule. Only governors elected or appointed under this Rule are empowered to vote at board meetings.

1. Implementation. The State Bar shall implement this Rule in a manner that provides for the election and appointment of approximately one-third of the board each year.

2. Elected governors.

A. Districts: Governors are elected from eight districts, as follows:

- i. Bar District One (Mohave, Navajo, Coconino and Apache counties): one governor
- ii. Bar District Two (Yavapai county): one governor
- iii. Bar District Three (Gila, Graham and Greenlee counties): one governor
- iv. Bar District Four (Cochise county): one governor
- v. Bar District Five (Pima and Santa Cruz counties): two governors
- vi. Bar District Six (Maricopa county): seven governors
- vii. Bar District Seven (La Paz and Yuma counties): one governor
- viii. Bar District Eight (Pinal county): one governor

B. Qualifications. Each elected governor must be an active member of the State Bar of Arizona throughout the elected term. For five years prior to election to the board, each elected governor must have been an active State Bar member and have had no record of disciplinary sanctions under Rule 60.

C. Nominations. Nominations for elected governor shall be by petition signed by at least five active State Bar members. Each candidate named in a petition and all members signing a petition must have their main offices in the district in which the candidate seeks to be elected.

D. Elections. Election of governors will be by ballot. Active and judicial members are entitled to vote for the elected governor or governors in the district in which a member has his or her principal place of business, as shown in the records of the State Bar. Active out-of-state members may vote in the district of their most recent Arizona residence or place of business or, if none, in Bar District Six. The State Bar will send ballots electronically to each member entitled to vote, at the address shown in the records of the State Bar, at least

two weeks prior to the date of canvassing the ballots. Members will return their ballots through electronic voting means, and the State Bar will announce the results at the ensuing annual meeting. The State Bar's bylaws will direct other details of the election process.

E. *Terms of service.* Each elected governor shall serve a three-year term. An elected governor will serve on the board until a successor is elected and takes office at the annual meeting. If the board receives notice that an elected governor's principal place of business has moved from the district in which the governor was elected, or that the governor has died, become disabled, or is otherwise unable to serve, that governor's seat is deemed vacant, and the other elected and appointed governors will choose a successor by a majority vote.

F. *Term limits.* An elected governor may serve three consecutive terms, but may not be a candidate for a fourth term until three years have passed after the person's last year of service. Election or succession to a partial term of less than three years will not be included in calculating a member's term limit.

3. *Young Lawyers Division President.* In addition to those governors elected under Rule 32(e)(2), the elected president of the Young Lawyers Division will serve as a voting member of the board of governors. The election of the Young Lawyers Division president will be conducted as provided by Rule 32(e)(2)(C), except that only members of the Young Lawyers Division are entitled to vote in that election. The Young Lawyers Division president will serve a one-year term on the board.

4. *Appointed governors.* The Supreme Court will appoint public, at-large, and district governors, collectively referred to as "appointed governors," to serve on the board.

A. *Public governors.* Four governors of the board are designated as "public" governors. The public governors must not be members of the State Bar and must not have, other than as consumers of legal services, a financial interest in the practice of law. Public governors are nominated by the board and appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Court may decline to appoint any board nominee and may appoint as a public governor a person who was not nominated by the board. No more than two public governors may be from the same district. No individual may serve more than two terms as a public governor. The Court may fill a vacancy in an uncompleted term of a public governor, but appointment of a public member to a term of less than three years will not be included in a calculation of the member's term limit.

B. *At-large governors.* Three governors on the board are designated as "at-large" governors. At-large governors, who may be former elected, public, or district governors, are appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Supreme Court may appoint at-large governors to successive terms. The Court may fill a vacancy in an uncompleted term of an at-large governor.

C. District governors. Three governors on the board are designated as “district” governors. District governors must be members of the State Bar, have their main office in the district of appointment, and meet the qualifications set out in Rule 32(e)(2)(B). District governors are appointed by the Supreme Court for terms of three years and begin board service at a time designated by the Court. The Court must appoint one district governor from Bar District Five and two district governors from Bar District Six. No individual may serve more than two terms as a district governor. The Court may fill a vacancy in an uncompleted term of a district governor, but appointment to a term of less than three years will not be included in a calculation of the member’s term limit.

5. Oath of governors. Upon commencing service, each governor, whether elected or appointed, must take an oath to faithfully and impartially discharge the duties of a governor.

6. Removal of a governor. A governor of the board may be removed for good cause by a vote of two-thirds or more of the governors cast in favor of removal. Good cause may include, but is not limited to, conviction of a felony or a crime involving moral turpitude, imposition of a discipline sanction under Rule 60, repeatedly ignoring the duties of a governor, or disorderly activity during a board meeting. A board governor so removed may, within thirty days of the board’s action, file a petition pursuant to Rule 23 of the Arizona Rules of Civil Appellate Procedure requesting that the Supreme Court review the board’s determination of good cause. The Court will expedite consideration of the petition.

7. Recusal of an attorney governor. An attorney board member who is the subject of either a probable cause order issued pursuant to Rule 55(c)(1)(E) or an agreement for discipline by consent filed under Rule 57(a) must recuse him- or herself from serving on the board pending disposition of the matter.

8. Board advisor. The immediate past president of the board will serve a one-year term as an advisor to the board. The advisor may participate in board discussions but has no vote at board meetings, except an immediate past president may continue to vote if his or her term as an elected board member has not expired. The board advisor, with the assistance of two or more governors chosen by the president, will lead a committee to recruit, recommend, and nominate candidates for the offices of president-elect and secretary-treasurer.

9. Ex officio members. The dean of each ABA-accredited law school in Arizona will serve as an ex officio member of the board. An ex officio member may participate in board discussions but may not vote at board meetings.

(f) Officers of the State Bar.

~~1. The officers of the state bar shall be a president, a president-elect, two vice-presidents, and a secretary/treasurer.~~

~~2. The term for the office of president shall expire at the conclusion of the annual meeting, and the president elect whose term expired at the same annual meeting shall automatically become the president and assume the duties of such office. The first vice president, whose term expired at the same annual meeting, shall automatically become the president elect and assume the duties of such office.~~

~~3. The first and second vice presidents and secretary/treasurer shall be elected from its membership by the board at the annual meetings. Such newly elected officers shall assume the duties of their respective offices at the conclusion of the annual meeting at which they are elected.~~

~~4. The officers of the state bar shall continue in office until their successors are elected and qualified.~~

~~5. An officer may be removed from his office by the vote of two thirds or more of the members of the board of governors cast in favor of his removal at a meeting called for such purpose.~~

~~6. A vacancy in any office caused other than by expiration of a term may be filled by the board of governors at a meeting called for such purpose.~~

~~7. The president shall preside at all meetings of the state bar and the board, and if absent or unable to act, the president elect or one of the vice presidents shall preside. Additional duties of the president, president elect, vice presidents and the secretary/treasurer may be prescribed by the board.~~

~~8. No public member shall hold office.~~

1. Officers. The board will elect its officers. The officers are a president, a president-elect, a vice-president, and a secretary-treasurer. An elected, at-large, or district governor may serve as an officer.

2. Terms of office.

A. President. The term of the president will expire at the conclusion of the annual meeting. The president-elect whose term expired at the same annual meeting will then automatically become, and assume the duties of, president at that time.

B. President-elect, vice-president, and secretary-treasurer. The board must elect a new president-elect, a new vice-president, and a new secretary-treasurer at each annual meeting. Those newly elected officers will assume their respective offices at the conclusion of the annual meeting at which they are elected, and they will continue to hold their offices until the conclusion of the subsequent annual meeting at which their successors are elected.

C. Length of term. Each officer will serve a one-year term.

D. Successive terms. A governor may not be elected to a second term for any office that the governor has held during the preceding nine or fewer consecutive years of service on the board. However, a governor may serve a partial term under Rule 32(f)(5), either before or after service of one full term.

E. Limitations. The term of a governor chosen as president or president-elect automatically extends until completion of a term as president if his or her term as a governor expires in the interim without their reelection or reappointment to the board, or if the term is limited under Rule 32(e)(2)(F). In either of these events, there shall not be an election or appointment of a new governor for the seat held by the president or president-elect until the person has completed his or her term as president, and then the election or appointment of a successor governor shall be for a partial term that otherwise remains in the regular three-year cycle under Rule 32(e)(1).

3. Duties of officers. The president will preside at all meetings of the State Bar and of the board of governors, and if absent or unable to act, the president-elect will preside. Additional duties of the president, president-elect, vice-president, and secretary-treasurer may be prescribed by the board or set forth in the State Bar bylaws.

4. Removal from office. An officer may be removed from office, with or without good cause, by a vote of two-thirds or more of the members of the board of governors cast in favor of removal.

5. Vacancy in office. A vacancy in any office before expiration of a term may be filled by the board of governors at a meeting called for that purpose.

(g) Annual meeting. [No change in text.]

(h) Administration of rules. Examination and admission of members shall be administered by the committee on examinations and the committee on character and fitness, as provided in these rules. Discipline, disability, and reinstatement matters shall be administered by the ~~disciplinary commission~~ presiding disciplinary judge, as provided in these rules. All matters not otherwise specifically provided for shall be administered by the board.

(i) Filings made. [No change in text.]

(j) Formal Requirements of Filings. [No change in text.]

(k) Payment of Fees and Costs. The payment of all fees, costs, and expenses required under the provisions of these rules relating to membership, mandatory continuing legal education, discipline, disability, and reinstatement shall be made to the ~~treasurer of the state bar~~ State Bar.

The payment of all fees costs and expenses required under the application for admission to the practice of law, examinations and admission shall be made to the finance office of the administrative office of the courts.

(l) Expenses of Administration and Enforcement. [No change in text.]

(m) Meetings and Records. The State Bar will conduct meetings and maintain records under public access policies adopted by the Supreme Court.

ATTACHMENT B

The implementation of Rule 32(e) will begin in 2019.

A. Elected members under Rule 32(e)(2) will be elected in 2019, and 2019 only, as follows:

Bar District One will elect one governor to a one-year term.

Bar District Two will elect one governor to a two-year term.

Bar District Three will elect one governor to a three-year term.

Bar District Four will elect one governor to a one-year term.

Bar District Five will elect one governor to a one-year term and one governor to a two-year term.

Bar District Six will elect two governors to one-year terms, two governors to two-year terms, and three governors to three-year terms.

Bar District Seven will elect one governor to a two-year term.

Bar District Eight will elect one governor to a three-year term.

B. Appointed members under Rule 32(e)(4) will be appointed by the Court in 2019, and 2019 only, as follows:

The Court will appoint one public member to a one-year term, one public member to a two-year term, and two public members to three-year terms.

The Court will appoint one at-large member to a one-year term, one at-large member to a two-year term, and one at-large member to a three-year term.

The Court will appoint one district member to a one-year term, one district member to a two-year term, and one district member to a three-year term.

C. In 2020, any governor elected or appointed to a one-year term in 2019 may seek re-election or request re-appointment to a three-year term.

D. In 2021, any governor elected or appointed to a two-year term in 2019 may seek re-election or request re-appointment to a three-year term.

E. In 2022, any governor elected or appointed to a three-year term in 2019 may seek re-election or request re-appointment to a three-year term.

F. Rule 32(e)(2)(F) will not apply to terms of less than three years served under this phase-in schedule. Further, any time served on the Board of Governors prior to January 1, 2019, will not be included in a calculation for term limits under Rule 32(e)(2)(F).