SUPREME COURT OF ARIZONA

In the Matter of PROMULGATE RULE OF THE SUPREME COURT RE: REDISTRICTING COMMISSION	)	Arizona Supreme Court No. R-10-0011 **FILED 09/07/2010**

AMENDED ORDER

On September 2, 2010, the Court promulgated new rules entitled "Procedures for Nominations for the Independent Redistricting Commission," to be effective January 1, 2011. It appearing necessary that the new rules be implemented sooner, upon consideration,

IT IS ORDERED that the original effective date of January 1, 2011 for the new rules is rescinded. The Procedures for Nominations for the Independent Redistricting Commission shall be effective as of September 7, 2010.

DATED this _____ day of September, 2010.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
Annette M Corallo

ATTACHMENT

RULES OF THE SUPREME COURT

XIII. PROCEDURES FOR NOMINATIONS FOR THE INDEPENDENT REDISTRICTING COMMISSION

Rule 126. Purpose

The Arizona Constitution, Article IV, Part 2, Section 1 provides that the Commission on Appellate Court Appointments ("the Commission") shall nominate candidates for vacant positions on the Independent Redistricting Commission who are "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." A nominee must be a registered Arizona voter who has been continuously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment. A nominee must not have been, within the three years prior to appointment, (1) appointed to, elected to, or a candidate for any other public office, including precinct committeeman or committeewoman but not including school board member or officer; (2) an officer of a political party or an officer of a candidate's campaign committee; or (3) a registered paid lobbyist. No more than two members of the Independent Redistricting Commission may be members of the same political party and no more than two of the first four members appointed may be residents of the same county.

Rule 127. Commission Chair

The Chief Justice of Arizona, or such other Justice of the Supreme Court as shall be appointed by the Supreme Court to serve in place of the Chief Justice, shall chair the Commission in its duty to nominate candidates for vacant positions on the Independent Redistricting Commission. The Chair shall preside at all meetings of the Commission.

Rule 128. Commission Secretary

The Chair shall appoint a member of the Commission as Secretary subject to the approval of the Commission. It shall be the duty of the Secretary to sign the record of the action taken at each meeting upon approval by the Commission. Either the Chair or the Secretary at the direction of the Chair shall sign all correspondence for the Commission. In the Secretary's absence the Chair shall choose a member to be Acting Secretary.

Rule 129. Commissioner Impartiality

(a) A Commissioner shall consider each applicant for the Independent Redistricting Commission in an impartial, objective manner.

(b) A Commissioner shall disclose to the Commission any relationship with an applicant (business, financial, personal, fiduciary, or attorney-client) or any other possible cause for conflict of interest, bias or prejudice. A Commissioner is disqualified from voting or otherwise participating in the nominating process so long as a member of the Commissioner's immediate family (spouse, child, parent, sibling or step-relative in any of these relationships) is an applicant under consideration for nomination. A Commissioner is disqualified from voting on an application by a spouse of the Commissioner's child; a Commissioner's in-law, aunt, uncle, niece, nephew, grandparent, grandchild or first cousin; or by an applicant who currently works in the same company, firm or organization as the Commissioner. A Commissioner is also disqualified from voting on any application that would present a conflict of interest. At the commencement of any Commission meeting where applicants are to be considered, the Chair shall inquire as to any basis for disqualification or disclosure pursuant to this rule.

(c) A Commissioner shall not be influenced other than by facts or opinion that are relevant to the qualifications of the applicants. A Commissioner shall promptly report to the Chair any attempt by any person or organization to influence a Commissioner other than by fact or opinion.

(d) A Commissioner shall not individually communicate verbally or in writing with an applicant from the time the application is submitted until nominations are submitted to the appointing official(s), about the application, the contents of the application, the Independent Redistricting Commission, the Commission, the nomination process, or any other matters related to the application.

Rule 130. Commission Meetings

(a) Meetings of the Commission may be called by the Chair or a majority of the members by written notice to the other members specifying the time and place of meeting. Such notice shall be mailed or delivered at least seven (7) days before the time specified, except that an emergency meeting may be held on shorter notice if the Chair or a majority of the Commissioners conclude that it is essential to hold an emergency meeting. The right to notice of a meeting may be waived by any Commissioner either before or after the meeting takes place. Attendance at a meeting by any member shall constitute a waiver of such notice unless the member, at or promptly after the beginning of such meeting, objects to the holding of the meeting on the ground of lack of, or insufficiency of, notice. The Commission may meet by electronic media.

(b) The Chair shall issue a call for a meeting promptly upon learning of the existence or anticipated existence of a vacancy on the Independent Redistricting Commission.

(c) Notice of all Commission meetings other than emergency meetings shall be posted at least seven (7) days before the meeting in the office of the Clerk of the Supreme Court. A notice of a Commission meeting shall state the date, time, and specific location of the meeting.

(d) A quorum for a Commission meeting shall be a majority plus one of the Commissioners in office at the time of the meeting. The Commission may act on any matter other than the decision to hold a meeting in executive session by majority vote of the Commissioners voting on the matter.

(e) Members of the public may comment orally at any Commission meeting at which applicants are to be considered. The Chair shall allocate equal time for relevant comment on each applicant under consideration. The Chair may terminate comments that exceed the time allocated or are irrelevant to the qualifications of applicants. The Chair may also limit duplicative comments regarding an applicant.

(f) The Commission shall hold an executive session upon a two-thirds vote of the Commissioners in attendance in order to promote open and frank discussion of applicant qualifications or to conduct a portion of an interview. To encourage frank discussion, the substance of deliberations in executive session shall not be disclosed by a Commissioner.

Rule 131. Recruitment of Applicants

(a) The Commission shall provide public notice that a vacancy exists on the Independent Redistricting Commission and that applications are being accepted. When feasible, such notice shall be given thirty (30) days or more before the deadline for applications.

(b) A Commissioner shall not commit in advance to vote for any applicant.

(c) A Commissioner may provide general information about the nominating process to a potential applicant until such time as the application is filed. Commissioners shall not actively recruit applicants.

Rule 132. Application

(a) Every applicant must complete and file an application for Independent Redistricting Commission as specified in the public announcement of each vacancy. The application shall be on a form approved by the Commission.

(b) If the Commission determines that it has not received applications from enough qualified applicants to provide a pool of nominees that complies with constitutional requirements for the composition of the pool, the Commission shall provide public notice soliciting additional applications to allow the Commission to compile a pool of nominees that meets constitutional requirements.

(c) The contents of all applications that relate to the applicant are public information and shall be made available to the public on the Commission's website. The names and contact information of persons listed as references shall be kept confidential to protect the privacy of third parties, and the confidential third-party information contained in the application shall not be made available to the public.

Rule 133. Screening of Applications and Selection of Nominees

(a) Public Notice and Comment. Names of applicants and the date, place, and time of the Commission meeting to review applications shall be disseminated to the public. Comments about applicants must be made in writing or orally at the meeting to review applications. Written comments must be submitted to the address indicated in the public notice of the meeting and, if feasible, should be submitted at least three working days before the meeting. Comments shall include the name, address,

and telephone number of the person submitting the comment. Written comments should not be sent directly to individual Commissioners.

(b) Investigation of Applicants. As soon as Commissioners receive applications, they may investigate the background and qualifications of applicants. Using the application as a starting point, Commissioners may contact individuals and institutions knowledgeable about the applicant.

(c) Selection of Nominees.

(1) *General.* The Commission shall meet for the purpose of deciding which applicants are to be nominated.

(2) *Consideration of Applicants.* The qualifications of each applicant shall be discussed and evaluated. Whether in public or in executive session, the Chair shall read the names of the applicants in alphabetical order and open the meeting to a discussion of that particular applicant's qualifications. After this procedure has been followed for each applicant, the Chair shall open the meeting to a general discussion of the relative qualifications of all the applicants. Each Commissioner shall disclose comments and other information concerning each applicant relied upon by that Commissioner in evaluating that applicant. If confidentiality has been promised to a source, Commission members shall consider whether less weight should be given to the information.

(3) *Discretion to Interview Applicants.* The Commission may interview any or all of the applicants in order to compile a list of nominees to be forwarded to the appointing official(s). At its meeting to review applications, the Commission shall determine whether any of the applicants will be interviewed. In public session, the Chair shall invite Commissioners to nominate applicants to be placed on a tentative list of those to be interviewed. Such a nomination requires the concurrence of one additional Commissioner. The name of each applicant who receives a vote of the majority of Commissioners present and voting shall be placed on a tentative list of applicants to be interviewed. Following this procedure, the tentative list of interviewees may be added to or subtracted from by a public vote until a final list of applicants to be interviewed is determined. If there are no nominations to interview applicants, the Commission shall proceed with selecting nominees pursuant to paragraph (c)(5) of this rule.

(4) *Conduct of Interviews.* Selected applicants may be publicly interviewed by the Commission. If interviews are conducted, public notice shall be made in the same manner as described in Paragraph 8.a, and the public may comment on applicants before the interviews in the same manner as described in Paragraph 8.a. The Commission shall schedule sufficient time before each interview to discuss the results of Commissioners' investigations and to determine whether any matters that were disclosed in the course of the investigation should be discussed with the applicant at the interview. A Commissioner may question an applicant about comments made about the applicant for which confidentiality has been requested so long as the

source of comment is not identified. Upon motion and a two-thirds vote of the Commission, a portion of the interview may occur in executive session, in which case the applicant shall have the right to disclose in public session the content of the executive session. No material and adverse information about an applicant that is known to a Commissioner prior to the interview may be disclosed to the Commission after the interview occurs.

(5) *Selection of Nominees for Submission to Appointing Official(s).* All voting by the Commission on the nominees to be forwarded to the appointing official(s) shall be in public session. In public session, the Chair shall invite Commissioners to nominate applicants to a tentative list for referral to the appointing official(s). Such a nomination requires the concurrence of one additional Commissioner. Each applicant who receives an affirmative vote of the majority of Commissioners present and voting shall be tentatively listed for referral to the appointing official(s). Such list is only tentative and names may be added to or subtracted from it at any time by further vote of the Commission. The Commission may meet in executive session to further discuss the applicants under consideration. The above process may be repeated until a pool of nominees that satisfies constitutional requirements is finalized by public vote of the majority of the Commission members present and voting for referral to the appointing official(s).

(d) Communication after Nominations. If a Commissioner receives new written information about a nominee after the nominations are referred to the appointing official(s), the Commissioner shall forward the information to the Chair of the Commission and the Chair shall forward the information to the appointing official(s), with a cover memorandum explaining that the information was not submitted in time for consideration by the Commission and therefore not investigated. If the information is verbal, the Commissioner shall advise the source about his or her right to contact the appointing official(s).

Rule 134. Transmittal to Appointing Official(s)

The names of the nominees, listed in alphabetical order, shall be delivered to the appointing official(s) as directed by the Chair. The Chair shall thereafter promptly inform the public of the names of the nominees. To facilitate the appointing official's selection, the Commission file concerning each nominee shall be provided when the names are delivered.