

ARIZONA JUDICIAL COUNCIL

JW Marriott Camelback Inn
5402 E. Lincoln Drive
Scottsdale, AZ 85253

June 19, 2017

Meeting Minutes

Council Members Present:

Chief Justice Scott Bales	Mike Hellon
Judge Janet Barton	Michael Jeanes
Ken Bennett	Gary Krcmarik
Judge Michael Brown	Judge Dorothy Little
Judge Kyle Bryson	Lisa Loo <i>proxy for Alex Vakula</i>
David Byers	Judge David Mackey
Judge Rachel Torres Carrillo	Lea Márquez Peterson
Judge Louis F. Dominguez	R. Tony Penn
Hon. Peter Eckerstrom	Judge Antonio Riojas, Jr.
Victor Flores	Lisa Urias
Judge Charles Gurtler	George Weisz
Athia Hardt	

Council Members Absent:

Jack Jewett (<i>excused</i>)	Judge Monica Stauffer (<i>excused</i>)
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Administrative Office of the Courts (AOC) Staff Present:

Candace Atkinson	Amy Love
Theresa Barrett	Denise Lundin
Mike Baumstark	Michelle Martinez
Stewart Bruner	Mark Meltzer
Catherine Clarich	Heather Murphy
Danny Cordova	Brittany Pelly
Karl Heckart	Marcus Reinkensmeyer
Susan Hunt	Judge Ron Reinstein
Don Jacobson	Lorraine Smith
Paul Julien	Cindy Trimble
Kevin Kluge	Mark Wilson
Jerry Landau	David Withey

Presenters and Guests Present:

David Alger
Cathleen Cole
Alexandria Dionne
Dean and Jerilyn Frei
Kevin Frei
Debbie Grado
Debra Grossman
Robert Grossman
David Irons

Martin Lynch
Vice Chief Justice John Pelander
William Riedel
Alex Smith
Tony Smith
Andrea Tazioli
Judge Sam Thumma
Mike Williams
Zhivko Zhelyazkov

Chief Justice Scott Bales, Chair, called the meeting to order at 9:35 a.m. and welcomed the attendees. He noted that Ms. Lea Márquez-Peterson, President/CEO of the Tucson Hispanic Chamber of Commerce, was recently appointed to the Council as a public member and is attending her first meeting.

Approval of Minutes

The Chair called for any corrections to the minutes from the Council’s March 23, 2017, meeting.

MOTION: To approve the minutes from the March 23, 2017, meeting of the Arizona Judicial Council, as written. The motion was seconded and passed. AJC 2017-04.

Judicial Branch Budget Update

Mr. Kevin Kluge, AOC Chief Financial Officer and Director of Administrative Services, presented information on the FY 2018 budget.

Judicial Branch Legislative Update

Mr. Jerry Landau, Director, and Ms. Amy Love, Deputy Director of Governmental Relations for the AOC, presented a review of the 2017 legislative session to include:

- Chapter 14/SB1157: competency hearings; jurisdiction; referral
- Chapter 34/HB2237: forcible entry; detainer; prohibited rules
- Chapter 35/ HB2240: alternate grand jurors; service
- Chapter 141/ HB2246: Arizona lengthy trial fund; continuation
- Chapter 151/ HB2244: initiatives; standard of review; handbook
- Chapter 197/HB2254: judicial productivity credits; salary calculation
- Chapter 303/HB2540: criminal justice; budget reconciliation; 2017-2018
- Chapter 329/SB1072: administrative decisions; scope of review)
- Chapter 338/SB1360: permanent guardianship; dependency proceedings; reunification

Commission on Technology (COT) Update

Vice Chief Justice John Pelander updated the Council on the COT's background, mission, current challenges, and FY 2018 project priorities.

Mr. Karl Heckart, AOC CIO and Director of Information Technology, presented information on automation projects and priorities for FY 2017-19 and upcoming changes for FY 2018-19.

Mr. Heckart briefed the Council members on the COT's recommendation to amend Security Standard 2.14 to accommodate the 6-month Notice of Claim time period specified in A.R.S. § 12-821-01 (deletion of employee's files 6 months after termination rather than 4 weeks).

MOTION: To approve the revised language for Security Standard 2.14 to accommodate the 6-month Notice of Claim time-period specified in A.R.S. § 12-821-01, as recommended by the Commission on Technology. The motion was seconded and passed. AJC 2017-05.

Mr. Kevin Kluge briefed the Council members on the Judicial Collection Enhancement Fund (JCEF) Allocations for FY2018, revenues, on-going commitments, comparison of revenue to expense, and the projected year-end fund balance, subject to action by the Legislature.

MOTION: To approve the JCEF automation budget, as recommended by the Commission on Technology, and the JCEF non-automation court programs budget and the JCEF probation budget, as recommended by the AOC Administrative Director and as appropriated by the Legislature, as written. The motion was seconded and passed. AJC 2017-06.

Arizona Code of Judicial Administration (ACJA)

Mr. Stewart Bruner, Strategic Planning Manager for the AOC Information Technology Division, presented amendments to ACJA § 1-501: Court Automation Standards for the Council's approval.

MOTION: To approve the amendments to ACJA § 1-501: Court Automation Standards, as written. The motion was seconded and passed. AJC 2017-07.

Mr. Bruner presented amendments to ACJA § 1-506: Filing and Management of Electronic Court Documents for the Council's approval.

MOTION: To approve the amendments to ACJA § 1-506: Filing and Management of Electronic Court Documents, as written. The motion was seconded and passed. AJC 2017-08.

Ms. Candace Atkinson, Consolidated Collections Unit Manager for the AOC Court Services Division, presented amendments to ACJA § 5-205: Collections for the Council's approval.

MOTION: To approve the amendments to ACJA § 5-205: Collections, as written. The motion was seconded and passed. AJC 2017-09.

Fair Justice Action Items and Project Update

Mr. Don Jacobson, Senior Special Projects Consultant for the AOC Court Services Division, updated the Council members on the implementation efforts of the Fair Justice Task Force.

Mr. Jacobson presented a draft administrative order entitled "Presiding Judges Authority" to replace Administrative Order No. 2005-32 and repeal Administrative Order No. 91-40.

MOTION: To approve the proposed changes to the Presiding Judges Authority Administrative Order, as written. The motion was seconded and passed. AJC 2017-10.

Mr. Jacobson presented a proposed administrative order entitled "Facilitating the Imposition and Collection of Court-Ordered Financial Obligations."

Extensive discussion took place regarding forms of payment. It was noted that there will always be special circumstances that arise which could preclude taking any form of payment.

MOTION: To approve the proposed Administrative Order entitled: "Facilitating the Imposition and Collection of Court-Ordered Financial Obligations" with the removal of the word "some" and the addition of the word "restrictions" to Section 2 to read "Forms of payment may be subject to reasonable restrictions and hold periods ..." The motion was seconded and passed. AJC 2017-11.

Mr. Jacobson presented the proposed bench card templates regarding ability to pay at time of sentencing in criminal and civil traffic cases and A.R.S. § 13-810 order to show cause hearings, lawful collection of legal financial obligations. He noted the first bench card would deal with the initial sentence and the second with ability to pay.

MOTION: To approve the proposed bench card templates modified for Arizona to be provided to judges for use when holding ARS § 13-810 Order to Show Cause Hearings (OSC), Lawful Collection of Legal Financial Obligations, allowing staff to make non-substantive changes as needed. The motion was seconded and passed. AJC 2017-12.

Commission on Victims in the Courts

Judge Ron Reinstein, Chair of the Commission on Victims in the Courts, briefed the Council members on the Commission's accomplishments to date to include their presentation at the 16th Annual Crime Victim Law Conference.

Judicial Branch Strategic Agenda "Advancing Justice Together" Update

Due to time constraints, this agenda item was postponed until the October meeting.

Defensive Driving Policy Issues

Mr. Mark Wilson, Director of the AOC Certification and Licensing Division briefed the Council members on the rapid growth of schools, website improvement, and updated course curriculum.

Mr. Wilson asks the Council members to support the following recommendations/proposals:

- Eliminate "Doing Business As" (DBA) utilizing same curriculum
- Update website to assist students when selecting school
- Update and improve curriculum
- Modify the renewal cycle for 2017-18

Public comment was received from the following individuals:

- Robert Grossman – Central Phoenix Traffic School
DBAs are deceptive to the public (same classes; different schools).
Cost of classes should not be listed.
- Tony Smith - Right Turn Traffic Schools
Not opposed to making changes if they are student centric not school centric.
AOC did not provide an opportunity to discuss proposed changes.
If you are going to change the 8-year old policy, you need to return the initial licensing fees that were paid for by the schools.

- Alex Smith – National Traffic Safety Institute (NTSI)
Would not have left his previous state given the current situation.
Flaw in the current proposal in requiring different curriculums.
Asking for more courses rather than quality courses.
Take a closer look at the curriculum and evaluate each individual program for its benefit/effectiveness.
- Andrea Tazioli - attorney with Quarles & Brady, representing Marla Keller
Concern with sorting schools by cost, as clients feel this cost sorting would be detrimental. What about setting a minimum price for the class.
Allow school to provide quality service.
- Alexandria Dionne/Mike Williams – Distance Learning
Concern with defining different curriculums.
Suggested a proposal that schools could not share any assets/resources.
DBAs are not increasing the free market; just the appearance.
Issue already addressed in other states, i.e., Michigan where they may have multiple places, but just one name on the school list.
Applauds the courts for their work on this issue and a fair solution.
- Kevin Frei – Cheap N Easy Traffic School LLC
Current system is working; leave it alone
Complaints are from competitors not the public.
We have a functional, working market.
Okay to list by time and location.
- William Riedel – Traffic School Management Services
He is a multiple school owner and DD school board member who has invested a lot of money, and he should not be punished for following the rules.
Unfair for government to intervene.
Suggested using a list with ratings of classes similar to the BBB.
We should not list businesses by price.
Schools should list what they do, their rating, and sample of what they offer.
Restricting online video curriculum is unfair given what they have invested.
Can live with zip code search within 5-10 miles.

Discussion took place regarding modifying the renewal cycle.

MOTION: Approve the recommendation that all renewals would be for one year under the current rules, and staff would continue to look at this problem. The motion was seconded and approved (one opposed). AJC-2017-13.

MOTION: Approve that going forward, staff should recognize the distinctions between online and in person classes/presentations. The motion was seconded and approved. AJC-2017-14.

Discussion took place regarding updating and improving the curriculum.

MOTION: Direct staff to study the issue of updating curriculum in ACJA 7-205(K) to see whether there are things not on the list that should be taught in these classes or items on the list that could be dropped. The motion was seconded and approved. AJC 2017-15.

Discussion took place regarding efficacy studies. It was suggested that we find a way to assess if one program is more effective than the other. Judge David Mackey raised concern with lack of financial and personnel resources to do this. Judge Janet Barton suggested that staff review costs and the work involved before making decision.

Discussion ensued regarding updating the website to assist students when selecting a school.

MOTION: Direct staff to begin working on updating the website to allow students who select an in-classroom course to be able to search by language, location, date, and time. Cost would be excluded. The motion was seconded and approved. AJC 2017-16.

Discussion took place regarding DBAs.

A motion was made to move forward with a moratorium on issuing any new DBAs as of October 31, 2017. It was suggested that the date be changed to June 30, 2017. The motion maker agreed to the amended motion. Concerns were raised with preventing people from entering the marketplace and people who may already be in the queue.

Discussion ensued on the fairness of a moratorium and the need to pause, resolve issues, and then lift the moratorium.

MOTION: Approve moving forward with a moratorium on issuing any new DBAs as of June 30, 2017. The motion was seconded and failed (11-7). AJC 2017-17.

Discussion took place on updating and improving curriculum. It was suggested that a group be empowered to look at ways to organize the website so there is not an incentive to operate under multiple DBAs, and information is provided to the public to let

them know that the same entity is being listed multiple times to increase their chances of being at the top of the list.

MOTION: Direct staff to find a way to show the public different defensive driving school programs they can choose from with one listing on the court's website; one listing per distinct course, not by license. In addition, staff were asked to come up with recommendations and code changes for the Council's review in October. The motion was seconded and approved (2 opposed). AJC 2017-18.

Call to the Public

Mr. Martin Lynch provided public comment on adhering to the Oath of Office under Rule 32.

Mr. David Alger provided public comment on the need for transparency, accessibility, and accountability.

MOTION: To adjourn the meeting. The motion was seconded and passed. AJC 2017-19.

The meeting adjourned at 3:45 p.m.