

PROPOSED AMENDMENTS TO RULE 2 (a) AND RULE 2 (c)

Rule 2.a.c.

(a) Composition of the Commission. The Commission shall be composed of not more than 34 members appointed by the Supreme Court. The Commission shall be composed of members of the public, attorneys AND judges and legislators. ~~No more than two legislative members may be from the same political party. Legislators shall serve as advisory non-voting members and may otherwise fully participate in all commission activities. The majority of the members of the Commission shall be members of the public who are not attorneys, judges, or legislators, and there shall be no more than 6- 7 judges and 6 attorneys among the non-public, non-legislative members-~~ ON THE COMMISSION.

(b) Chairperson: The Chief Justice of Arizona shall select the Chairperson of the Commission. The Chairperson shall preside at all meetings of the Commission. The Chairperson shall select a Vice Chairperson ~~who shall not be from the same member group (public, judge or attorney).~~ WHENEVER THE CHAIRPERSON IS AN ATTORNEY MEMBER, THE VICE CHAIRPERSON SHALL BE A PUBLIC MEMBER.

(c)Terms. ~~Each non-legislative member of the Commission shall serve for a term of four years and be eligible for reappointment. In the case of a vacancy which occurs before expiration of a term, the member appointed to fill such vacancy shall serve for the duration of the unexpired term. Legislative advisory members shall be appointed for a term to coincide with their term of legislative office and may be reappointed if still eligible.~~

BACKGROUND

As currently constituted (July 2014), the Judicial Performance Review Commission (JPR) consists of 30 members, allocated as shown on the attachment. Prior to 2012, the first retention cycle in which Pinal County was included, 28 of the 30 members were from either Maricopa or Pima Counties. That number is now 22, with most of the shift instituted to accommodate the addition of Pinal County to the process.

Also prior to 2012, the 6 judicial members were allocated as follows: 2 Superior Court judges from Maricopa County; 2 Superior court judges from Pima County; and one Appellate Court judge each from Division 1 and Division 2.

When first constituted, the JPR Commission included legislative members. In 2005, when a legal issue arose as to whether it was appropriate for members of one branch of government to evaluate members of another branch, the legislators stopped participating in JPR. The Commission has since operated with thirty members, though Rule 2a provides for up to 34 members.

THOUGHTS REGARDING PROPOSED AMENDMENTS TO RULE 2 (a) AND RULE 2 (c)

1. **Legislative Members:** Since 2005, legislators have not participated in JPR. Changing the rules regarding their membership would allow a greater number of active participants to serve the Commission.
2. **Size of JPR Commission:** When legislative members dropped out of JPR, the positions previously allocated to them remained unfilled. Even when it became necessary to restructure the commission to accommodate Pinal County, the restructuring was done within the then-composition of 30 members.

There does not appear to be any compelling reason to alter the overall number of Commissioners. Rather, it seems that some of the adjustments that occurred in 2012 to include Pinal County in the JPR process can now be alleviated by reallocating the unfilled legislative positions.

3. **Composition of JPR Commission (Judicial Members):** As discussed previously, in order to comply with Rule 2(a), one appellate judge was removed from the commission and replaced with a Superior Court judge from Pinal County. By authorizing an additional judge to sit on the commission, we could return to the tradition of having one appellate judge member each from Division 1 and Division 2.
4. **Composition of JPR Commission (Attorney Members):** Prior to 2012, the attorney members were split evenly (3 each) between Maricopa and Pima Counties. To accommodate Pinal County, one of the attorney positions was moved from Pima County to Pinal County. The proposed amendment to Rule 2 (a) would allow the third attorney position in Pima County to be restored, but would not mandate it.
5. **Chairperson/Vice Chairperson:** In consideration of public perception, it is not recommended that a judge ever be chair or vice chair of the commission. To use a currently popular buzz word, the “optics” would not be positive. Similarly, it is not recommended that attorney members hold both positions at any one time. There does not seem to be any important reason, however, why two public members could not hold both positions simultaneously.