

FIDUCIARY BOARD

Meeting Agenda – November 9, 2023

Arizona Supreme Court -1501 West Washington Street
Phoenix, Arizona 85007 - 10:30 A.M. Zoom/Conference Room 330
General Inquiries Call: 602-452-3378 (Certification and Licensing Division Line)
Members of the public may attend meeting in person.

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel (under ACJA Sec. 1-202(C)(5)(c)) or for discussion or consideration of records or matters made confidential or privileged by statute, court rule, or the Arizona Code of Judicial Administration (under ACJA Sec. 1-202(C)(5)(b)).

CALL TO ORDER..... *Hon. Jennifer Perkins, Chair*

1) REVIEW AND APPROVAL OF MINUTES..... *Hon. Jennifer Perkins, Chair*

1-A: Review, discussion, and possible action regarding the regular session minutes of the meeting held on September 14, 2023.

2) PENDING COMPLAINTS..... *Division Staff*

2-A: Update regarding pending complaints.

2-B: Review, discussion, and possible action regarding Complaint Nos. 20-0013, 20-0014, 22-0051, and 22-0052 involving license holders Jane Anne Geisler and Managed Protective Services, Inc.

2-C: Review, discussion, and possible action regarding Complaint No. 23-0033.

2-D: Review, discussion, and possible action regarding Complaint No. 21-0011 involving license holder Compass Fiduciary Group, LLC.

2-E: Review, discussion, and possible action regarding Complaint No. 22-0050 involving license holder Christopher Leas.

2-F: Review, discussion, and possible action regarding Complaint Nos. 21-0047 and 21-0048 involving license holders Teresa Lancaster and Bogutz & Gordon, P.C.

2-G: Review, discussion, and possible action regarding Complaint No. 22-0049 involving license holder Jason Cobb.

2-H: Review, discussion, and possible action regarding Complaint No. 21-0005 and 21-0006 involving license holders Michael Bogle and East Valley Fiduciary Services, Inc.

3) INITIAL LICENSURE AND ELIGIBILITY.....Division Staff

3-A: *Review, discussion, and possible action regarding the following applications for initial individual and/or business licensure:*

1. Susana Chavez
2. Casey Ross
3. Dianne McNamara
4. Matthew Mansour
5. Nancy Thornton

4) RENEWAL LICENSURE AND APPLICATIONSDivision Staff

4-A: *Review, discussion, and possible action regarding the following applications for renewal of individual and/or business entity licensure:*

1. Tara Lara
2. Certified Fiduciary Services, Inc.
3. Theresa Eells
4. Nicolle Escalante
5. Kelly Adamcik
6. Coy Vernon
7. Dawn Garcia
8. Garcia Fiduciary Services
9. Teresa D. Lancaster
10. Bogutz & Gordon, P.C.
11. Christopher Leas
12. Reliance Fiduciary, LLC

5) LICENSURE AND ELIGIBILITY.....Division Staff

5-A: *Review, discussion, and possible action regarding voluntary surrender request received from Garcia Fiduciary Group, LLC.*

5-B: *Review, discussion, and possible action regarding request from examinee Jose Lopez to retake the fiduciary exam for a fourth time.*

6) ADMINISTRATIVE ITEMS.....Division Staff

6-A: *Review, discussion, and possible action regarding changes to ACJA §7-202(K) regarding proposed fee changes.*

6-B: *Review, discussion, and possible action related to the process of proposing modifications to the Arizona Code of Judicial Administration (ACJA).*

CALL TO THE PUBLIC..... Hon. Jennifer Perkins, Chair

LIMITED RESPONSE TO CALL TO THE PUBLIC.....Hon. Jennifer Perkins, Chair

Individual members of the Board may take one or more of the following actions: (a) respond to criticism made in Public Comment; (b) ask staff to review a matter raised in public comment; or (c) ask that a matter raised in public comment be put on a future agenda. NOTE: Neither the Board as a whole nor Staff are permitted to discuss a matter raised in public comment and the Board is not permitted to vote on a matter raised during an open call to the public unless the matter was otherwise properly noticed on the meeting agenda for discussion and legal action

ADJOURN Hon. Jennifer Perkins, Chair

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Division at 602-452-3378 or TDD 602-452-3534. A person requesting an accommodation should make the request as early as possible to allow time to arrange the requested accommodation.

FIDUCIARY BOARD

Agenda Summary – November 9, 2023

2) PENDING COMPLAINTS

2 A: Update regarding pending complaints.

As of October 27, 2023, there are 63* open complaints.

** Complaints are open until probable cause is determined. The total open complaints represent complaints under investigation. They do not include complaint numbers 20-0013, 20-0014, 21-0009, 22-0051, 22-0052, 21-0005, 21-0006, 21-0011, 21-0047, 21-0048, 22-0049, 22-0050, and 23-0033 presented at this Board meeting.*

FIDUCIARY COMPLAINTS

Age (Months)	Number Cases	Percent
0-4	8	12.7%
5-9	23	36.5%
10-14	12	19.0%
15-19	10	15.9%
20-22	3	4.8%
23-35	7	11.1%
36 and over	0	0%
Total	63	100%

The previous open complaint chart presented at the September 14, 2023, Board meeting:

Age (Months)	Number Cases	Percent
0-4	9	24.4%
5-9	10	27%
10-14	4	10.8%
15-19	8	21.6%
20-22	3	8.1%
23-35	3	8.1%
36 and over	0	0%
Total	37	100%

** In September 2023, complaints were counted without regard to the number of license holders included in the complaint. Going forward, complaints are counted based on each license holder included in the complaint*

FIDUCIARY BOARD

Agenda Summary – November 9, 2023

6) ADMINISTRATIVE ITEMS

6-B: Review, discussion, and possible action related to the process of proposing modifications to the Arizona Code of Judicial Administration (ACJA).

A member of the public requested additional information about the process for recommending modifications to the ACJA. The Fiduciary program page currently has two items on its FAQ page addressing how ACJA proposals are submitted and how the public can know if proposals are pending.

The process for modifying the ACJA is not the same as proposing legislation to the legislative branch, but there are some similarities, such as a draft is proposed, a sponsor is obtained, and the proposal is circulated for comment before a final version goes to a vote.

The Administrative Office of the Courts (AOC) maintains a public website where the most recent versions of the ACJA's sections are maintained (<https://www.azcourts.gov/AZ-Supreme-Court/Code-of-Judicial-Administration>). The top of that page states the following:

The Arizona Constitution states, "The supreme court shall have administrative supervision over all the courts of the state." The Supreme Court adopts policies and procedures to guide municipal, justice of the peace, superior court and appellate courts throughout Arizona in conducting their administrative functions in a fair, efficient and fiscally responsible way.

The Code of Judicial Administration is a compilation of these policies and procedures for the administration of all Arizona courts.

At the top of the ACJA website are links to proposals currently pending on the ACJA Forum, the ACJA drafting manual, and frequently asked questions. The AOC's legal department maintains the ACJA website and its content.

What is the purpose of the ACJA?

Historically, the chief justice exercised the supreme court's administrative supervision over the judicial department by issuing administrative orders. The Arizona Code of Judicial Administration (ACJA) is a codification of all significant, statewide, ongoing operational policies and standards involving the structure and operation of the judicial department. ACJA sections govern the administrative functions of the judicial department. A code section is a statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of a division or program. Typically a code section affects multiple courts, addresses ongoing rather than temporary responsibilities, states the authority of judicial branch officers, implements statutes, or makes significant legal or operational distinctions concerning

customers or regulated persons. ACJA sections should provide direction only to persons or entities subject to the supreme court's administrative authority.

Who can propose an ACJA change?

Any person may initiate a proposal to adopt a new administrative code section or to amend or repeal an existing code section by submitting the proposal to the Administrative Director. An administrative code proposal must include a draft of the proposed new or changed section, a concise explanation of the need for the proposal, and a description of the entities or persons that would be affected if the proposal is adopted. If the administrative director of the Administrative Office of the Courts (AOC) determines there is a need for a new or modified section of the ACJA, the director assigns the proposal to an administrative division of the AOC for processing.

How does a member of the public propose an ACJA change?

ACJA proposals must be submitted to the administrative director of the Administrative Office of the Courts (AOC). A member of the public could submit a proposal to a supreme court board or committee or to an administrative division of the AOC through the division or board or committee contact information posted on the AOC's website for review by the administrative director.

When can a proposal be posted?

ACJA proposals may be requested and posted at any time – they are not on a specific cycle. Final proposals may only move forward for implementation after recommendation for approval from the Arizona Judicial Council, which meets quarterly in public sessions.

How long does the public have to review and comment on a proposal?

Under ACJA § 1-201(C), proposals must be available for comment for at least 30 days.

Who reviews proposed ACJA changes?

Proposals are posted for public review and comment. This includes the general public, courts, court staff, academics, government officials, and individuals and entities subject to the proposed duties and regulations. Proposals are presented or distributed to appropriate committees of the Arizona Judicial Council (AJC), members of the court community and other persons who would be affected by the proposed code section.

The Administrative Office of the Courts (AOC)'s legal department reviews proposals before submitting them to the administrative director. The administrative director reviews proposals before submitting them to the AJC. The AJC reviews proposals before submitting them to the Court, and the chief justice reviews proposals before implementing them through administrative order.

Who can modify a proposal from the version publicly posted?

Division staff assigned to process the proposal should summarize any comments submitted and identify and resolve, if possible, policy and legal issues by either revising the proposed code section to incorporate the suggested changes or briefly responding to any suggested changes that were not made. The administrative director and the Arizona Judicial Council (AJC) may make additional revisions to the version publicly posted. The administrative director or AJC may proceed with the revised version or direct that revisions be reposted for additional public comment.

Who decides on the final version of a proposal?

The Administrative Office of the Courts (AOC)'s administrative director, the Arizona Judicial Council, and the Arizona Supreme Court. After considering public comment and legal review, the administrative director approves a final version to present to the Arizona Judicial Council (AJC). The AJC may vote to deny a proposal, recommend further research or revisions, or vote to recommend adopting a proposal. The version of a proposal that the AJC votes to approve is submitted to the Court. The Court implements ACJA modifications through an Administrative Order.

When do ACJA modifications take effect?

Unless otherwise stated in the Court's implementing Order, ACJA modifications take effect on the date of the Chief Justice's signature.

Where are ACJA modification proposals posted?

Proposals are posted on the public ACJA Forum, located at <https://www.azcourts.gov/ACJA-Forum>.

Are technical or emergency modifications treated differently?

Yes. The chief justice may adopt emergency proposals and technical changes without prior distribution for comment and action by the Arizona Judicial Council (AJC). These changes are prepared in the same form as other code sections or amendments, except the Administrative Order will include information on the necessity for adoption without review. Technical changes are revisions required by changes in statutes, rules, non-substantive changes that do not alter the meaning of the text or as otherwise determined by the chief justice. Emergency code proposals must be distributed for comment after adoption and any comments should be presented to the AJC at the next meeting.