

Carol Mitchell  
Certification and Licensing Division  
Administrative Office of the Courts  
1501 W. Washington, Phoenix, AZ 85007  
602-452-3963

**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of: )  
PETITION TO AMEND RULES ) Supreme Court No. R-16-\_\_\_\_  
35 AND 36 RULES OF )  
THE SUPREME COURT )

Pursuant to Arizona Supreme Court Rule 28, the Certification and Licensing Division, respectfully petitions the Supreme Court to adopt the attached proposed rule amendments impacting certain Petitions filed with the Supreme Court related to attorney admissions matters.

In accordance with Rule 34 of the Rules of the Arizona Supreme Court, an applicant seeking to sit for the uniform bar examination and all applicants seeking to be admitted to the practice of law must provide information to both the Committee on Character and Fitness and the Committee on Examinations. These Committees evaluate the information and determine which candidates are appropriately qualified to be admitted to the practice of law in Arizona.

In the course of this evaluation process, applicants often must submit information that is personal or confidential in nature. For this reason, Rule 37(c) of the Rules of the Arizona Supreme Court provides that any documentation associated with an individual's application is considered confidential and allows for very few exceptions to this strict confidentiality. This Petition to Amend Rules addresses the situation in which the applicant with a disability or medical condition challenges a Committee decision and seeks to petition the Supreme Court pursuant to Rules 35(d) and 36(f) of the Rules of the Arizona Supreme Court.

In such situations, the Petition for Review and/or any responsive briefing often includes medical records and professional medical evaluations with sensitive and private information about an applicant's physical and/or psychological health or fitness. Currently, the Committee advises applicants if a petition is filed with the Supreme Court, such materials become public documents. As a result, most applicants file an additional motion to seal to avoid disclosure of such information. Generally, the Committees have not opposed a request to seal medical records or professional medical evaluations and the Supreme Court typically grants the request. This history has demonstrated that motions to seal medical records or professional medical evaluations are placing an additional burden on the applicant and resulting in additional filings.

In light of the sensitive nature of the documents containing personal information submitted by medical or psychological professionals, the proposed amendments cause these documents to be sealed without an order from the Court. The amendments to the aforementioned rules will also ensure the confidentiality of sensitive materials filed with the Supreme Court is uniformly enforced.

The Attorney Regulation Advisory Committee (ARC) was advised of matters highlighting privacy concerns, and during the November 18, 2015 meeting, ARC unanimously approved the language changes cited in Attachment A. These changes are put forth as a recommendation to strike the appropriate balance of public versus private information of applicants with matters filed into the Arizona Supreme Court.

RESPECTFULLY SUBMITTED this 9th day of January, 2016

By Carol Mitchell  
Carol Mitchell  
Certification and Licensing Division  
Arizona Administrative Office of the Courts  
1501 W. Washington, Phoenix, AZ 85007  
602-452-3963

**APPENDIX A**  
(Proposed new language is underlined)

Sup. Ct. Rule 35 (d)

(d) *Review by the Court.* (1) An applicant aggrieved by any decision of the Committee on Examinations may, within twenty (20) days after such decision, file a verified petition for review with this Court; however, the Committee on Examination's decision regarding any applicant's grade score is final and will not be reviewed by the Court absent extraordinary circumstances. The petition must succinctly state the facts that form the basis for the petition and the applicant's reasons for believing this Court should review the Committee's decision. A copy of the petition must be promptly served upon the Committee. The Committee will have thirty (30) days after service to file a response and transmit the applicant's file to this Court. Thereupon the Court will consider the matter and render a decision.

(2) Notwithstanding the provisions of Rule 37(c), any document filed pursuant to this Rule 35(d), shall not be confidential except any reports or records written by a licensed medical or psychological professional shall be considered confidential and sealed by the Clerk of Court, upon notice by the applicant or Committee.

Rules of the Supreme Court, Rule 36:

**(h) Review by the Court.**

1. *Petition for Review.*

A. An applicant aggrieved by any decision of the Committee on Character and Fitness may, within twenty (20) days after such decision, file a verified petition for review with this Court.

The petition must succinctly state the facts that form the basis for the petition, and applicant's reasons for believing this Court should review the decision of the Committee.

B. A copy of the petition must be promptly served upon the Committee. The Committee will have thirty (30) days after service to transmit the applicant's file, including all findings and reports prepared by or for the Committee, and a response to the petition fully advising this Court as to the Committee's reason for its decision and admitting or contesting any assertions made by the applicant in the petition. Thereupon this Court shall consider the papers so filed, together with the petition and response, and make such order, hold such hearings and give such directions as it may in its discretion deem best adapted to a prompt and fair decision as to the rights and obligations of applicant judged in the light of the Committee's and this Court's obligation to the public to see that only qualified applicants are admitted to practice as attorneys at law.

2. *Review on Court's Own Motion.* All recommendations for conditional admission are subject to de novo review by the Court. The Committee on Character and Fitness, through the assigned panel, must file with the clerk its written decision recommending conditional admission and the terms of conditional admission.

The Court may decline review, or it may grant review on its own motion. If the Court declines review, the panel's recommendation for conditional admission will be final and the panel will issue the Order of Conditional Admission. If the Court grants review, the Court may issue such orders as may be appropriate for its review, including remanding the matter to the Committee for further action, ordering transmittal of the applicant's file, ordering additional briefing and/or setting the matter for oral argument. After receiving all the appropriate pleadings and record, the matter will be deemed submitted to the Court for its decision. A party or the panel may request that the Court seal a portion of the materials submitted for de novo review.

3. Sealed documents. Notwithstanding the provisions of Rule 37(c), any document filed pursuant to this Rule 36(h), shall not be confidential except any reports or records written by a licensed medical or psychological professional shall be considered confidential and sealed by the Clerk of Court, upon notice by the applicant or Committee.