

Rules of Procedure

Tempe Judicial Advisory Board

Rule 1. Officers of the Board:

The Judicial Advisory Board (Board) shall at the first meeting following the 31st day of December of each year select a chair and vice-chair from its voting members to serve up to three consecutive one-year terms in that position, or until their service on the Board ends. The chair shall preside at all meetings of the Board. In the chair's absence, the vice-chair shall preside. If both the chair and vice-chair are absent, the Board shall choose a voting member to be acting chair.

Rule 2. Board Meetings:

(A) All meetings of the Board shall comply with the Arizona Open Meeting Law (Ariz. Rev. Stat. Ann. section 38-431 et seq.).

(B) A quorum for the Board shall be four voting Board members. If there is a quorum, the Board may meet and act on any matter by a majority vote of the Board members present and voting on the matter.

Rule 3. Reappointment Review and Judicial Recruitment:

(A) Reappointment Review:

(1) The Court shall compile results of surveys on judicial performance solicited in advance, from the various court participants: including attorneys, litigants and jurors, judicial peers and court staff, and members of the public and include the results in the reappointment packet provided to the Board. The reappointment packet shall also include a letter of recommendation from the presiding judge of the Court (or in the case of the reappointment of the presiding judge, a letter of recommendation from the presiding judge of the Superior Court in Maricopa County) and a self-evaluation from the judge being considered for reappointment. The Court shall also make inquiry of the Commission on Judicial Conduct for any adverse rulings against the judge and include the information in the reappointment packet.

(2) The Board shall hold a public meeting to interview the judge being considered for reappointment and may vote to go into executive session to consider information from Rule 3(A)1 above to determine whether to recommend to the Mayor and Councilmembers the reappointment of a judge whose term is expiring.

(3) All interested members of the public are encouraged to comment on the reappointment of judges. The Board shall post reappointment meetings of the Board in compliance with the Arizona Open Meeting Law.

(4) The Board's written recommendation concerning the reappointment of a judge shall be delivered to the Mayor and Councilmembers as soon as possible after the vote of the Board and shall state that the Board does or does not recommend reappointment

(5) The presiding judge, as a non-voting ex-officio member, shall give input to the Board on the job performance of applicants seeking reappointment, and, as directed by the Board, supervise court staff who provide assistance to the Board in executing its' duties.

(B) Judicial Recruitment:

(1) The chair shall schedule and provide notice of a meeting upon learning of the existence or anticipated existence of a vacancy in judicial office within the jurisdiction of the Board.

(2) Board members shall actively seek and encourage qualified individuals to apply for judicial office. Board members should keep in mind that qualified persons often will not actively seek judicial appointment and, thus, Board members are encouraged to seek out well-qualified persons and encourage them to apply for appointment even if a Board member ultimately may be ineligible to vote for this person's recommendation for appointment pursuant to Rule 3(B)4 below. At the direction of the Board, the Court shall publish notice of the recruitment for judicial office widely, and in a manner, that assures that all attorneys and other qualified persons within Maricopa County and beyond would be reasonably expected to become aware of the notice.

(3) Each Board member shall consider each applicant for judicial office in an impartial, objective manner.

(4) If any Board member knows of any facts which may raise or appear to raise a conflict of interest with an applicant, the member shall disclose such fact to the Board prior to any related vote and the Board member shall determine whether to participate in any such vote base on Arizona Revised Statute Title 38.

(5) Each Board member shall discourage and avoid any person or organization attempting to influence the member with facts or opinions other than those relevant to the judicial qualifications of applicants, and shall disclose any such contact prior to any related vote. The Board shall post judicial recruitment meetings of the Board in compliance with the Arizona Open Meeting Law.

(6) The presiding judge, as a non-voting ex-officio member, shall assist the Board in the publishing of the vacancy and of the recruitment process, shall encourage qualified applicants to apply, and shall participate in the screening and interviewing process of applicants, and give input to the Board on the various applicants as it relates to their qualifications and the needs of the Court. The presiding judge shall also supervise court staff who provide assistance to the Board in executing its' duties and act as a liaison between the Board and the Mayor and City Council regarding any issues of recruitment that may arise, as directed by the Board.

Rule 4. Application Procedures for Judicial Vacancies:

(A) **Application:** Every applicant shall complete and file an application for appointment with the City's Human Resources Division as directed in the recruitment announcement and application form. The Court has adopted the City of Tempe Personnel Rules, therefore, the processing of applications shall be governed by the City's Personnel Rules, unless otherwise inconsistent with these Rules of Procedure.

(B) **Screening:** Unless otherwise deemed appropriate by the chair, applications and all supporting documents shall be provided to the Board members at least seven days prior to the first Board meeting to screen and consider the applications received for follow-up interviews by the Board.

Rule 5. Investigation of Applicants, Initial Screening of Applications and Selection of Interviewees:

(A) **Investigation of applicants:** As soon as Board members receive applications and documents on file, Board members may begin investigating the background and qualifications of applicants. Board members may contact as many of the individuals and institutions knowledgeable about the applicant as deemed beneficial and receive communications from individuals who wish to voluntarily provide input on an applicant. Communications received may be in writing or otherwise at the discretion of each member, as further described in Rule 6(C) below. Court personnel shall make inquiry of the Commission on Judicial Conduct for any adverse rulings against a judge being considered for appointment and of the State Bar of Arizona for any disciplinary information against an attorney being considered for appointment as a judge. Findings of these inquiries shall be provided to the Board. Board members shall encourage sources to allow their names to be disclosed to the Board and to the applicant, but may accept comments about an applicant from a source that requests confidentiality, if the Board member believes it is in the best interests of the public to accept such comment. When a comment given to a Board member concerning an applicant contains an opinion as to the applicant's reputation, temperament, character, fitness or competency to hold judicial office (hereinafter referred to as qualifications), the Board member shall inquire as to the factual basis, circumstances and examples which support the opinion and as to names of others whom the source of the opinion believes might have knowledge about the opinion.

Comments will be considered public information unless designated by the source as confidential. If designated confidential, comments will be restricted to Board review only, unless otherwise determined by law to be public information. If the source does not include his or her name, the comments shall be treated in accordance with Rule 4(B)4 below.

(B) **Screening Meeting:**

(1) **Executive Session:** The Board may hold an executive session pursuant to the Arizona Open Meeting Law. During executive session, the Board may hold an open and frank discussion of applicants' qualifications. Each Board member shall disclose comments and other information concerning each applicant relied upon by that Board member in evaluating that applicant. If confidentiality has been promised to a source, Board members shall consider whether less weight should be given to the information. Information received in the course of the investigation that is material and adverse and is reasonably presumed to have a potential to influence the decision of the Board shall be treated in accordance with Rule 5(B)3 and Rule 5(B)4 below. The qualifications of each applicant shall be discussed and evaluated in detail. At any stage in the selection process, to aid the Board in investigating and evaluating the qualifications of the applicants, the Board may, with the assistance and direction of the Human Resources Division, contract with an independent provider to do background checks and investigate the qualifications of such applicants and to such degree as directed by the Board.

2) **Public Comments:** Members of the public are invited to comment orally and in writing at any public meeting except executive sessions. The chair shall allocate equal time at the screening meeting for relevant comment on each applicant. The chair may terminate comments which exceed the time allocated or which are irrelevant to the qualifications of applicants. The chair may also limit duplicative comments regarding an applicant.

(3) **Opinion Comments:** Opinions that are not supported with factual basis, circumstances or a second source, shall not be disclosed or considered at the Board meeting. Opinions that are supported with factual basis or circumstances or a second source may be shared with the Board in a public meeting or executive session provided that the supporting information is also disclosed.

(4) **Anonymous Comments:** No information from an anonymous source shall be considered by any Board member or shared with any other Board member at any point in the screening process.

(5) **Selection of Applicants for Interviews:** In a public session, the chair shall invite Board members to nominate applicants to be placed on a tentative list of those to be interviewed. Such a nomination requires the concurrence of one additional Board member. The name of each applicant who receives a vote of the majority of the Board members present and voting shall be placed on a tentative list of applicants to be interviewed. Following this procedure and with or without an additional executive session or sessions, the tentative list of interviewees may be added to or subtracted from by public vote until a final list of applicants to be interviewed is determined.

(6) **Notification of Applicants:** Upon determination of a final list of applicants to be interviewed, all applicants shall be promptly notified. The Human Resources Division shall contact applicants not selected and court personnel shall contact those moving forward to be interviewed. The Human Resources Division shall assist court personnel in scheduling the interviews.

Rule 6. Interviews, Further Investigation and Selection for Recommendation to the Mayor and Councilmembers:

(A) **Interview Meeting:** The Board shall meet for the purpose of interviewing selected applicants in order to compile a list of applicants to be investigated further, including possible second interviews, to determine who to recommend to the Mayor and Councilmembers for appointment. At the time the Board meets for the initial interviews, or at a later date, the qualifications and results of further investigation by the Board of selected applicants shall be discussed and evaluated in detail. Each Board member shall disclose comments and other information concerning each applicant relied upon by the Board member in evaluating that applicant. If confidentiality has been promised to a source, Board members shall consider whether less weight should be given to the information. Information received in the course of the investigation that is material and adverse and is reasonably presumed to have the potential to influence the decision of the Board shall be treated in accordance with paragraphs 5(B)3 and 4 above.

(B) **Interviews:** The Board shall interview each selected applicant in accordance with the Arizona Open Meeting Law. The Board shall vote on the interviewed applicants in an open meeting in accordance with

the Arizona Open Meeting Law, selecting which applicants are to be investigated further, including possible second interviews.

(C) **Public Notice and Comment:** Names of applicants selected for interviews and the date, place, and time of the Board meeting(s) to interview applicants shall be made available to the public widely. The names of those to be interviewed shall be published widely to organizations and agencies similarly to the original recruitment announcement, including an invitation to the public for comment on the selected candidates, with information on how confidential information may be submitted. Comments about applicants shall be made as follows: (i) in writing to the Board through court personnel, (ii) verbally or in writing, in person or by telephone/text or email, to individual Board members, or (iii) verbally to the Board at a public meeting. Members of the public are invited and encouraged to comment at the interview meeting(s). The chair shall allocate equal time for each relevant comment on each applicant as provided in Rule 5(B)2 above.

(D) **Investigation of Selected Applicants After Interviews:** Keeping in mind that individual members of the public are often hesitant to provide adverse information regarding an applicant, whether confidential or not, Board members, after interviews, shall further evaluate selected applicants by contacting as many individuals, community groups, past employers and other sources as deemed reasonable to obtain as much information as possible on the applicant's qualifications and receive communication from individuals who wish to voluntarily provide input on any applicant. Communications received may be in writing or otherwise at the discretion of each Board member, as further described in Rule 6(C) above. Board members shall encourage sources to allow their names to be disclosed to the Board and to the applicant, but may accept comments pursuant to the provisions in Rule 5(B) 3 and 4 above.

(E) **Opinion Comments:** Opinion comments may be considered as provided in Rule 5(B)3 above.

(F) **Anonymous Comments:** No anonymous comments may be considered as provided in Rule 5(B)4 above.

(G) **Conduct of Interviews:** First interviews of selected applicants shall be conducted by the Board at a public meeting. Second interviews may be held with selected applicants. At a second interview, Board members may question an applicant about adverse comments made about the applicant, including comments for which confidentiality has been requested, so long as the source of the comment is not identified. For second interviews, upon a motion and a majority vote of the Board members present and voting, all or 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 or require that the interview be held only in public session.

(H) **Deliberations of the Board:** The Board shall hold an executive session upon a majority vote of the Board members present and voting in order to promote an open and frank discussion regarding the qualifications of selected applicants interviewed. Whether in public or in executive session, the chair shall read the names of the selected applicants in alphabetical order and open the meeting to a discussion of each 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 the selected applicants.

(I) Selection of Nominees for Further Investigation or Recommendation to the Mayor and Councilmembers: All voting by the Board on the number of applicants to be interviewed, to be investigated further, invited for a possible second interview, or to be recommended to the Mayor and Councilmembers for consideration for appointment shall be held in public session. In public session, the chair shall invite Board members to nominate applicants interviewed for further consideration or final recommendation. Such a nomination requires the concurrence of one additional Board member. Each applicant who receives a vote of the majority of Board members present and voting shall be listed for consideration. Such list is only tentative and names may be added to or subtracted from it at any time by further public vote of the Board. The above process may be repeated until the resulting list of applicants includes a final list of those to be further investigated or to be finally recommended to the Mayor and Councilmembers for appointment.

(J) Communication after Interview Meeting(s): The Board may designate a member of court staff to coordinate with the Human Resources Division for communication with applicants interviewed to inform them of whether or not they have been selected for a second interview or to be recommended to the Mayor and Councilmembers. The names of those selected for second interviews or those finally recommended shall be identified on the Court's public website until such applicant(s) are considered by the Mayor and Councilmembers.

Rule 7. Transmittal to the Mayor and Councilmembers: The name(s) of the applicant(s) recommended by the Board, listed in alphabetical order if more than one, along with their applications and all other written materials considered, shall be delivered to the Mayor and Councilmembers for their further consideration.

Rule 8. General Operational Authority and Rules: The Board shall conduct itself in compliance with the authority granted it in Section 2-31 of the Tempe City Code, and to the extent not inconsistent with the Code, by these Rules of Procedure, and as amended from time to time by majority vote of the Board.