

## Alaska Judicial Council

### **Bylaw Review Committee Meeting Summary**

December 10, 2025

The Alaska Judicial Council Bylaws Committee meeting convened at 10:00 a.m. via Zoom. Members Denny DeWitt, Jonathon Katcher, and John Wood were present. AJC senior staff Susanne DiPietro (ED), Susie Dosik (Administrative Attorney), and Teri Carns (Special Projects) were present; AJC administrative staff Evelyn Sharrat-Ash and James Shuey took notes.

Mr. Wood suggested the committee select a chair; Mr. DeWitt agreed to serve in that role. Members agreed they would proceed by consensus without formal votes. Staff will consolidate notes and prepare a report of the proceedings which will be reviewed by the committee and then presented to the Council together with any committee proposals and background documents. Members suggested the first status report be given at the February Council meeting.

Mr. DeWitt said that in addition to reviewing the bylaws, committee members should review the Council's procedures for selection and retention to be sure they are consistent with the bylaws; it was agreed that the procedures would be amended for consistency after the adoption of any amendments to the bylaws.

Mr. DeWitt said he would send members an article from The Alaska Story blog citing an article by Ken Blackwell in TownHall about Alaska's selection procedures and confidentiality provisions. He suggested that the Council's processes could be subject to scrutiny by the US Department of Justice for policies that did not reflect the federal administration's position on diversity, equality, and inclusion.

Ms. Dosik noted that all AJC meetings are public, including committee meetings. Meetings, including this bylaw committee meeting, are posted on the state's online notices website and the Council's website.

Mr. Wood asked if all the Council members' comments were attached to the public notice; Ms. Dosik said that was not the practice. Members discussed whether individual members' comments should be published before meetings or in some location on the Council's website. They also discussed what meeting materials might be published prior to a meeting, and where. Members differed in their thoughts on this topic. Mr. Katcher said that the Council acts as a body, with the expectation that individual Council members' comments would be discussed at public meetings but not posted. Mr. DeWitt said all materials being considered at a meeting should be available to the public ahead of

Meeting Summary  
Bylaw Committee Meeting/December 10, 2025

the meeting. Staff agreed to draft a proposed agenda and send it to the chair for review before posting it on the Council's website. Staff also agreed to research issues around publishing individual committee members' thoughts and provide a memo to the committee.

Mr. DeWitt suggested setting a schedule for upcoming meetings. Members agreed to tentatively set 90-minute meetings for January 8 and February 4 at 10 a.m., with the understanding that those dates might change. Mr. Katcher noted that Ms. Fletcher will replace him on this committee after his term expires in February. It was agreed to review the bylaws in the order they are written, beginning with Article I and proceeding down the list.

Before starting the discussion of Article I, Mr. Dewitt and Mr. Wood asked for clarification about the provision in Article III designating the executive director as an officer of the Council. Ms. Dosik explained that this provision came from the Council's earliest days, when it adopted Robert's Rules of Order to govern the conduct of meetings and procedures; Robert's Rules provides that the executive director of an organization shall be an officer of the body.

## Article I

Members considered Article I of the Council bylaws, starting with the opening language in Section 2: **"The Judicial Council shall nominate for judicial office and for public defender those judges and members of the bar who stand out as most qualified . . ."** Mr. Wood advocated that the language be changed to require each member to use a numerical ranking system in which each applicant who received a rating above a set score (3.5) would be nominated, and those with ratings below that line would not. He pointed out that the selection procedures already contain the word "ranking" so his proposal is consistent with that [VI(C): "...the deliberations now turn to comparing and ranking all applicants so that each member can identify the candidates whose overall qualifications, in that member's view, make them most qualified to be nominated."] Under this proposal, the words "most qualified" would be removed from the bylaws and procedures.

Mr. Katcher noted that the minutes of the Constitutional Convention were clear that the delegates' intent was for the Council to nominate only the most qualified of the applicants. The Council members had since their first meeting nominated only those who stood out as the most qualified, and the "most qualified" standard is part of the history and tradition of the Council. Changing the most qualified standard would be profoundly inconsistent with the drafters' intent. He further noted numerous efforts made over the years to change the standard, changes which have been consistently rejected, including

Meeting Summary  
Bylaw Committee Meeting/December 10, 2025

legislation that had been introduced but never gained support, and the unsuccessful proposal to hold a Constitutional Convention based in part on the premise that the judicial selection system be changed. Mr. Wood asked staff to compile a history of efforts to change the Council's nomination standard.

Mr. DeWitt said the governor should have a greater role in the appointment of judges, the Council should involve the governor more, not less, and in his judgment the Council's intent has become to limit the governor's choices. For those reasons, he does not support retention of the "most qualified" standard. He noted that other organizations such as the American Bar Association and the Institute for the Advancement of the American Legal System (IAALS) recommend standards of "well qualified" and "highly qualified." He said he would approve of "highly qualified" as a standard for Council nominations. He also expressed concerns about limiting the Council's decisions through use of a ranking system, as a ranking system also would be subjective. He said the Council is not including the public as it should when it deliberates in executive session, and he concurred with Mr. Wood's position that individual members should be able to explain in public the reasons they voted for or against a particular applicant. The public has a right to know why a member voted a certain way.

Mr. Katcher said that the Council acts as a body, and explaining individual votes could harm people who became judges by opening them up to comments later on with people saying, "[Council member] voted against you because...." He said this would undermine confidence in the judiciary.

Members agreed that they had completed their discussion of Article I, Section 2. They moved to consideration of Section 3, in particular the language in the first sentence, "**... the Council . . . may provide a recommendation regarding retention or rejection.**" Mr. Wood said that the section should be amended to replace "may" with "shall" make a recommendation. Ms. Dosik noted that the language of sentence followed the language of the statute, which uses "may" make recommendations. Ms. Carns noted that the Council had considered this language repeatedly in the past and had voted each retention cycle to make recommendations without voting to change the language to "shall." Mr. DeWitt said it is no business of a governmental entity to be a campaign arm of anyone on the ballot, and making a recommendation on a judge who was opposed was overstepping. The Council should be open to new ideas. It should present the performance information it has without making a recommendation. Mr. Wood said he would be willing to leave the language as "may."

Mr. Katcher said that the legislature believed that Council recommendations could assist the public, but did not mandate a particular outcome. He said that the voters have relied on the Council's recommendations for the past 50 years, and those recommendations are part of the Council's history and tradition and there is no reason to change that now.

Meeting Summary  
Bylaw Committee Meeting/December 10, 2025

Members also discussed the meaning of “active support” in Article VIII, Section 3 [“The Council may actively support the candidacy of every incumbent judge recommended to be retained...”]. Mr. Wood asked how this language relates to a campaign, and Mr. Katcher asked about the meaning of “actively support.” Staff was asked to prepare a history of the Council’s active support of judges’ candidacies during retention elections. Mr. Katcher noted that the Council is a body created by Alaska’s Constitution, and that the history of its actions was important to understanding its process as it considers changes to that process.

Mr. Wood asked about the language in Article I Section 5(B) regarding individual Council members’ speech. Ms. DiPietro explained that the section is limited to the situation in which a Council member is speaking on behalf of the Council regarding a Council recommendation to improve the administration of justice. Members suggested the language could be revised to make that intention more clear, and asked staff to make suggestions for re-wording.

Members adjourned the meeting at 11:45 a.m.