

VIRGINIA STATE BAR JUDICIAL CANDIDATE EVALUATION COMMITTEE

The Virginia State Bar (VSB) Judicial Candidate Evaluation Committee (JCEC or Committee) consists of thirteen active lawyer members, one from each of the bar's ten disciplinary districts and three from the state at large, elected to staggered three-year terms by Council on recommendation of the nominating committee. Committee members are not eligible to serve a second consecutive three-year term, but former members may serve as members pro tempore. The VSB's Executive Committee shall assign a representative to serve as a liaison to the JCEC as a non-voting member. The chair is selected by the Committee each year.

In instances where one or more currently serving members of the Committee are not available to participate in the process of developing and making recommendations for a particular judicial vacancy, the chair of the Committee may appoint, as members pro tempore, a like number of past members of the Committee who are willing and able to serve during the process of developing and making recommendations for that judicial vacancy.

1. Investigation and Evaluation Process:

When a judicial vacancy occurs on the Supreme Court of Virginia, the Court of Appeals of Virginia, the State Corporation Commission, the Federal District Courts in Virginia, or a Virginia seat on the United States Court of Appeals for the Fourth Circuit, it is the responsibility of the JCEC to consider and, where appropriate, seek nominees. A member of the JCEC from a particular VSB disciplinary district will normally be assigned to investigate any and all nominees from that district. The VSB's Executive Committee will be notified of the candidates' names once they are determined. Sources will be assured of confidentiality by the investigating Committee member, who will report orally to the Committee on his or her overall findings and conclusions as to each nominee without attribution. After judicial nominees are investigated by individual members of the Committee, it will act as a whole to conduct personal interviews with nominees and engage in any other additional investigation deemed necessary.

Following investigation and personal interviews of the candidates, the Committee shall vote on the qualifications of all candidates. Any candidate who fails to receive an affirmative vote from a simple majority of those voting shall not be reported by the Committee. All candidates who receive an affirmative vote from a simple majority of those voting shall be deemed and reported as "Qualified." The Committee shall thereafter conduct a second vote to determine, by simple majority of those voting, whether any of the candidates deemed qualified possesses a level of qualification and distinction sufficient to merit the designation "Highly Qualified."

At the conclusion of the Committee's deliberations and voting, the Committee shall prepare an executive summary of the Committee's reasons for its actions with respect to each candidate being designated as either "Qualified" or "Highly Qualified."

The vote count for each candidate's evaluation of "Qualified" or "Highly Qualified" shall be included in the executive summary of each candidate.

The Committee's designations and executive summaries shall be provided to the Executive Committee (EC) and shall be deemed approved by the EC unless the EC takes action otherwise. JCEC's designations and executive summaries shall thereafter be forwarded to the appointing authority in writing and, if permitted, presented orally in person, by the President or his or her designee. Following submission of the Virginia State Bar's designations and executive summaries, these documents will speak for the organization, and no representative of the Virginia State Bar is authorized to offer any further statement regarding any person's qualifications or suitability for the vacancy, unless the process is re-opened by the appointing authority and the Virginia State Bar's evaluations are again requested for the vacancy utilizing the process outlined in this policy.

2. Evaluation Criteria and Considerations:

The evaluation should follow the criteria and considerations listed below, i.e., the Committee member conducting the investigation should seek information relating to the integrity, professional competence, and judicial temperament of the candidate:

a. Integrity is self-defining. The nominee's character and general reputation in the legal community are investigated, as are his or her industry and diligence.

b. Professional competence encompasses such qualities as intellectual capacity, judgment, writing and analytical ability, knowledge of the law and breadth of professional experience.

c. In evaluating the experience of a nominee, the Committee recognizes that opportunities for advancement in the profession for women and members of minority groups may have been limited. Substantial courtroom and trial experience (as a lawyer or a trial judge) is important for nominees to both the appellate and the trial courts. Additional experience that is similar to in-court trial work — such as appearing before or serving on administrative agencies or arbitration boards, or teaching trial advocacy or other clinical law school courses — is considered by the Committee in evaluating a nominee's trial experience. Significant evidence of distinguished accomplishment in the field of law may compensate for a nominee's lack of substantial courtroom experience.

d. Recognizing that an appellate judge deals primarily with records, briefs, appellate advocates and colleagues (in contrast to witnesses, parties, jurors, live testimony and the theater of the courtroom), the Committee may place somewhat less emphasis on the importance of trial experience as a qualification for the appellate courts. On the other hand, although scholarly qualities are necessary for the trial courts, the Committee believes that appellate court nominees should possess an especially high degree of scholarship and academic talent and an unusual degree of overall excellence. The ability to write lucidly and persuasively, to harmonize a body of law and to give

guidance to the trial courts for future cases are considered in the evaluation of nominees for the appellate courts.

e. The Committee considers that civic activities and public service are valuable experiences, but that such activity and service are not a substitute for significant experience in the practice of law, whether that experience be in the private or public sector.

f. In investigating judicial temperament, the Committee considers the nominee's compassion, decisiveness, open-mindedness, courtesy, patience, freedom from bias and commitment to equal justice under the law.

Approved by Council on June 17, 1993
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