

JUDICIAL CANDIDATE EVALUATION POLICY

I. Committee Composition

A. 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.

B. The Committee is a neutral, non-partisan, deliberative body.

II. Committee Procedures

A. If requested by the appointing authority, when a judicial vacancy occurs on the Supreme Court of Virginia, the Court of Appeals of Virginia, 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 Committee to consider and, where appropriate, seek nominees.

B. The chair of the Committee will assign two members of JCEC to investigate each candidate. A member of the Committee from a particular VSB disciplinary district will normally be assigned to investigate any and all nominees from that district. The Committee members conducting the investigation should seek information relating to the experience, integrity, professional competence, temperament, service to the law and to the effective administration of justice and communication skills of the candidate.

C. 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.

D. 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.

E. In evaluating candidates, the Committee should consider the following criteria:

1. Experience: A candidate for judicial office should be a member of the Virginia State Bar and have been engaged in the practice or teaching of law, public interest law, or service in the judicial system. 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. Recognizing that an appellate judge deals primarily with records, briefs, appellate advocates and colleagues, the Committee may place somewhat more emphasis on the importance of scholarship and the ability to write lucidly and persuasively, to harmonize a body of law and to give guidance to the trial courts for future cases in the evaluation of nominees for appellate courts.

2. Integrity: The candidate should be of high moral character and enjoy a general reputation in the community for honesty, industry and diligence.

3. Professional competence: Professional competence includes intellectual capacity, professional and personal judgment, writing and analytical ability, knowledge of the law and a breadth of professional experience, including courtroom and trial experience.

4. Temperament: Judicial temperament includes a commitment to equal justice under law, freedom from bias, ability to decide issues according to law, courtesy and civility, open-mindedness and compassion.

5. Service to the law and contribution to the effective administration of justice: Factors in this category include professionalism and a commitment to improving the availability of providing justice to all. 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.

6. Communication skills: Communication skills include the ability to write and speak lucidly and persuasively; to present a question, a response, an order, a ruling, a decision and a judgment, such that it can be understood not only by the lawyers but the parties to the litigation and by the public as well. The communications should give guidance to the trial courts, the members of the bar and the public for future cases.

F. Following investigation and personal interviews of the candidates, the Committee shall vote on the qualifications of all candidates.

1. Any candidate who fails to receive an affirmative vote from a simple majority of those voting shall not be reported by the Committee.

2. 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.”

3. 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.

G. If a candidate has previously been evaluated by the Committee for the same position, and received a rating of “Qualified” or “Highly Qualified,” there shall be a rebuttable presumption that the candidate merits at least the same rating. In order for the presumption to be rebutted, the Committee must be presented with information reflecting on the candidate’s qualifications that warrants a vote to a lower rating.

H. 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.

I. 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.

Approved by Council on June 17, 1993
Amended by Council on June 18, 1998
Amended by Council on June 19, 2003
Amended by the Executive Committee pursuant to
Council authorization, November 30, 2006
Amended by Council on March 2, 2007
Amended by Council on October 19, 2007
Amended by Council on June 14, 2012
Amended by Council on February 27, 2016