

**SUPREME COURT
JUDICIAL NOMINATING COMMISSION
RULES OF PROCEDURE**

AS AMENDED 11-16-2016

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Section I. Initial Procedure; Investigative Sources; Notice

Whenever a vacancy occurs on the Supreme Court, the office of Statewide Prosecutor, the office of Capital Collateral Regional Counsel, or the office of Criminal Conflict and Civil Regional Counsel the Supreme Court Judicial Nominating Commission (the "Commission") shall receive and review applications submitted by those applicants who timely request consideration. Each such application shall be in substantial compliance with the approved form of the Commission and shall include a waiver of confidentiality of all materials necessary to adequately investigate each applicant including, but not limited to, disciplinary records of The Florida Bar, records of the Florida Board of Bar Examiners, credit records, records maintained by any law enforcement agency, and (where applicable) records of the Florida Judicial Qualifications Commission.

The Commission shall provide notice of the vacancy and the deadline for applications to The Florida Bar, county and local bar associations (including minority and women's bar associations), and at least one newspaper of general circulation in the relevant jurisdiction.

The Commission may seek and shall receive information from interested persons and groups.

Section II. Initial Screening

On or before the deadline established by the Commission, each applicant must submit to the Commission: (1) an original application (including all attachments); (2) an

electronic copy of the original application (including all attachments) in pdf format; and (3) an electronic redacted copy of the original application, which excludes all material that is exempt or confidential under applicable public records laws. One copy of each application with attachments shall be forwarded by the chair to the Judicial Nominating Commission Coordinator, General Counsel, Office of the Governor. The Commission shall require appropriate financial disclosure information as part of the application. The Commission may require such additional information as it deems appropriate.

The application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees, to the JNC Coordinator, General Counsel, Office of the Governor.

Within a reasonable time after the deadline for applications, the Commission shall meet to consider the applicants and to select applicants for further investigation and consideration. No person shall be selected for further investigation and consideration who does not meet all legal requirements for the office to be filled.

Section III. Electronic Media and Still Photography Coverage of Judicial Nominating Commission Proceedings

Subject at all times to the authority of the chair of the Commission to: (i) control the conduct of proceedings before the Commission; (ii) ensure decorum and prevent

distractions; and (iii) ensure the fair administration of justice in the pending cause, electronic media and still photography coverage of the open Commission proceedings shall be allowed as provided by Florida Rule of Judicial Administration 2.450.

Section IV. Further Investigation; Interviews

The Commission shall further investigate the fitness and qualifications of each selected applicant using all sources reasonably available within the time permitted by law, including a criminal background investigation by the Florida Department of Law Enforcement (FDLE). In addition, the Commission may invite each selected applicant to appear before a quorum of the Commission sitting as a whole to respond to questions by the Commission deemed pertinent to each applicant's fitness and qualifications to serve on the Supreme Court, to serve as Statewide Prosecutor, to serve as Criminal Conflict and Civil Regional Counsel, or to serve as Capital Collateral Regional Counsel, as the case may be.

Except for deliberations of the Commission, all interviews and proceedings of the Commission shall be open to the public to the extent required by the Florida Constitution.

Prior to the interview of any applicant, each Commission member shall disclose to the remaining Commission members all negative information received by such member concerning any applicant.

At any time before its final vote is concluded, the Commission may request an applicant to reappear before the Commission to answer additional questions and to provide additional information.

Section V. Standards and Qualifications; Criteria

No applicant shall be nominated to the Governor or to the Attorney General for

appointment unless the Commission finds the applicant to be fit for appointment after full and careful consideration. The Commission's consideration of applicants for appointment shall include, but not necessarily be limited to, the following criteria:

- (a) Applicable constitutional and statutory criteria
- (b) Personal attributes
 - (1) Personal integrity
 - (2) Standing in community
 - (3) Sobriety
 - (4) Moral conduct
 - (5) Ethics
 - (6) Commitment to equal justice under law
- (c) Competency and experience
 - (1) General mental and physical health
 - (2) Intelligence
 - (3) Knowledge of the law and judicial system
 - (4) Professional reputation
 - (5) Knowledge of and experience with the office sought
- (d) Judicial capabilities
 - (1) Patience
 - (2) Decisiveness
 - (3) Impartiality
 - (4) Courtesy
 - (5) Civility

- (6) Industry and promptness
- (7) Administrative ability
- (8) Possible reaction to judicial power
- (9) Temperament
- (10) Independence

Section VI. Final Selection of Nominees

Upon the conclusion of its investigations and interviews, the Commission shall meet to select by majority vote qualified nominees from those persons having applied for such vacancy. The number of qualified nominees selected by the Commission shall be consistent with constitutional and statutory criteria for the applicable office. The names of the nominees selected by the Commission shall be certified to the Governor or to the Attorney General, as applicable, in alphabetical order, along with a copy of all investigative information and documents relating to each nominee.

Section VII. Procedure for Final Voting

1. Final voting procedures to nominate to the Governor or to the Attorney General qualified applicants from those interviewed will take place:
 - (a) After the Commissioners have had an opportunity to review the applications, supporting data, and all other pertinent information;
 - (b) After the applicants selected by the Commission to be interviewed have been interviewed to the satisfaction of a majority of the Commission members;
 - (c) After the applicants have been discussed to the satisfaction of a majority of the Commission members; and

- (d) Without any straw vote, unofficial vote, tentative vote, or official vote until the above-described steps have been taken, except that this limitation shall not apply to a screening process to reduce the number of applicants to be interviewed.
2. All votes shall be cast by written, secret ballot. On the initial round of voting each Commissioner shall cast six (6) votes, one per applicant. Any applicant who receives two (2) votes shall continue to the next round of voting.
 3. On each successive round(s) of voting, the number of votes cast by each Commissioner shall be reduced by one (1) and the minimum required to remain on the proposed list shall be raised by one (1) vote.
 4. This process shall continue until only three (3) applicants remain on the list or, if there is a tie for third place, more than three (3) shall be permitted so long as it is less than six (6). If there are more than six (6) then there will be a vote among those tied for third place with each Commissioner casting one (1) vote and only the person who receives the most votes shall remain on the proposed list.
 5. Following completion of the initial round of voting, any Commissioner can then move to reconsider an applicant who did not make the initial proposed list. If the motion is seconded, the Commission shall vote to reconsider the applicant with each Commissioner casting one (1) vote. If a majority of the Commissioners eligible to vote, vote in favor of the motion, the applicant shall be added to the proposed list until there are not more than six (6) applicants on the proposed list.
 6. After the proposed list is complete, any Commissioner may make a motion to remove anyone on the list. If it is seconded, a vote shall be cast on the applicant, with

each Commissioner casting one (1) vote. If a majority of the Commissioners eligible to vote, vote in favor of the motion, the applicant shall be removed from the list.

7. Finally, a motion to declare the list final shall be made, seconded and if it receives a majority vote of the Commissioners, the final list shall then be complete and those names shall be submitted to the Governor or to the Attorney General, as applicable.

Section VIII. Publication of Names of Nominees

The chair of the Commission shall make public the names of all persons nominated by the Commission without indicating any preference of the Commission.

Section IX. Ethical Considerations

Commissioners hold positions of public trust. A Commissioner's conduct should not reflect discredit upon the selection process or disclose partisanship or partiality in the consideration of applicants. Consideration of applicants shall be made impartially and objectively.

A Commissioner shall disclose to other Commissioners present all personal, professional, and business relationships with an applicant. In the event any applicant is a member of the judiciary, each member of the Commission shall disclose to the Commission all matters which he, she, or any of his or her clients have pending before the applicant. All voting conflicts shall be addressed in accordance with section 112.3143 of the Florida Statutes. The chair shall rule upon whether a substantial conflict of interest exists. All balloting by the Commission shall be by secret ballot and the chair shall be entitled to vote in all instances. Upon certification of the nominees to the Governor or to the Attorney General, no Commissioner shall contact the Governor or the Attorney General or any member of their offices or staffs, for the purpose of further influencing the Governor's or Attorney General's

ultimate decision. However, if contacted by the Governor or Attorney General, or their offices or staffs, a Commissioner shall be entitled to answer questions about each nominee. No attempt should be made to rank nominees or to otherwise disclose a preference of the Commission.

Section X. Misconduct

Each Commissioner shall be accountable to the Governor and the chair for compliance with these rules and the proper performance of his or her duties as a member of the Commission. Each Commissioner affirms that under these rules the Governor or the chair may dispose of any written complaint alleging the misconduct of one or more Commissioners or of the Commission, limited only by Article IV, Section 7 of the Constitution of the State of Florida. Each Commissioner further acknowledges that pursuant to Article IV, Section 7 of the Constitution the Governor may suspend from office any Commissioner for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.

A complaint alleging the misconduct of one or more Commissioners (other than the chair) shall be reported in writing to the chair for action. Upon the chair's receipt of any such charges, the subject Commissioner(s) and the Governor's office shall be immediately notified thereof and thereafter kept continuously apprised of the status of such complaint through final disposition. The chair shall investigate any complaint if the allegations are in writing, signed by the complainant, and deemed sufficient by the chair. A complaint shall be deemed sufficient if the chair determines that it contains allegations which if proven would be a violation of these rules or reflects discredit on the judicial selection process. Prior to determining sufficiency the chair may require supporting information or

documentation as necessary for that determination. Upon determination of sufficiency, each charge: (a) may be disposed of by the chair solely; or, (b) may be referred by the chair for disposition by the Governor exclusively, or with the concurrence of the chair, but in consultation with the Governor, all other members of the Commission. Disposition of a complaint shall include a hearing which affords the opportunity for the presentation of evidence by all interested parties to be evaluated by a clear and convincing standard of proof. Action shall be taken within 60 days of receipt of any written complaint and its final disposition shall be immediately reported to the chair and the Governor.

A complaint alleging the misconduct only of the chair shall be reported in writing to the Governor for action. Upon the Governor's receipt of any such charges, the chair shall be immediately notified thereof and thereafter kept continuously apprised of his or her status through final disposition. The Governor's office shall investigate any complaint if the allegations are in writing, signed by the complainant, and deemed sufficient. A complaint shall be deemed sufficient if the Governor determines that it contains allegations which if proven would be a violation of these rules or reflects discredit upon the judicial selection process. Prior to determining sufficiency, the Governor may require supporting information or documentation as necessary for that determination. Upon determination of sufficiency, each charge shall be disposed of by the Governor in consultation with all other members of the Commission. Disposition of a complaint shall include a hearing which affords the opportunity for the presentation of evidence by all interested parties to be evaluated by a clear and convincing standard of proof. Action shall be taken within 60 days of receipt of any written complaint and its final disposition shall be immediately reported to the Commission and the Governor.

A complaint alleging the misconduct of the chair and one or more Commissioners shall be reported in writing to the Governor for action. Upon the Governor's receipt of any such charges, the chair and Commissioner(s) shall be immediately notified thereof and thereafter kept continuously apprised of their status through final disposition. The Governor shall investigate any complaint if the allegations are in writing, signed by the complainant, and deemed by the Governor to be sufficient. A complaint shall be deemed sufficient if the Governor determines that it contains allegations which if proven would be a violation of these rules or would reflect discredit on the judicial selection process. Prior to determining sufficiency, the Governor may require supporting information or documentation as necessary for that determination. Upon determination of sufficiency each charge may be disposed of by the Governor in consultation with all other members of the Commission. Disposition of a complaint shall include a hearing which affords the opportunity for the presentation of evidence by all interested parties to be evaluated by a clear and convincing standard of proof. Action shall be taken within 60 days of receipt of any written complaint and its final disposition shall be immediately reported by the Governor to members of the Commission.

Section XI. Annual Meeting; Selection of Chair; Local Rules; Safeguarding of Records

After July 1 of each year, the Commission shall elect a chair by majority vote to serve for one year and shall certify his or her name to the Governor. The chair's term shall end on July 1 of the next year or upon the election of his or her successor in office. The chair may be reappointed. After July 1 and the appointment of all Commission vacancies by the Governor, the new Commission shall elect by majority vote a vice chair who shall have at least two years remaining in his or her term. The vice chair shall automatically be

nominated for chair at the next annual election held. Additional nominations of qualified persons for chair are allowed.

Within the first twelve months after appointment, each Commissioner must complete an educational course designed to familiarize members with Commission rules and procedures. Training shall include segments regarding interviewing techniques and diversity sensitivity.

The Office of the Governor (through its JNC Coordinator or other appropriate designated officer or employee) shall be the official depository and custodian of the records of the Commission.

The chair shall keep a permanent written record of all policies and procedures adopted by the Commission during his or her term and shall send a copy to the JNC Coordinator in the Governor's office

The Commission may adopt such additional operating rules, forms and notices as it may from time to time deem necessary, so long as they are not inconsistent with these rules. The Commission shall maintain continuous records of its proceedings. Minutes of each meeting reflecting the official formal actions taken by the Commission shall be prepared and signed by the chair and shall be preserved in a permanent file. The files will be available on a continuous basis to the Commission upon request, but the files may be destroyed on a yearly basis.

At the conclusion of his or her term, the outgoing chair shall turn over to the newly elected chair all written records of adopted policies and procedures.

Section XII. Amendments

These rules may be amended by majority vote of the members of the Commission.