



# JUDICIARY COMMITTEE ORGANIZATION AND RULES

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## **JUDICIAL EVALUATION COMMITTEE**

The Committee shall be known as the "Lancaster Bar Association Judiciary Committee." The Committee shall be responsible for developing and implementing a judicial evaluation process consistent with its bylaws for, among other offices, candidates to the Court of Common Pleas of Lancaster County in the Commonwealth of Pennsylvania. The Committee's procedures shall include reviewing the investigator's report, interviewing each candidate, discussing qualifications, and reaching an agreement upon and issuing a rating for each candidate for judicial office.

## **COMPOSITION AND SELECTION OF COMMITTEE**

The Committee shall be composed of up to seventeen members of the Association including:

1. Five persons elected by the members of the Lancaster Bar Association (the "Association") at the Annual Meeting for staggered five-year terms;
2. The six most recent past presidents of the Association who are available to serve and not then serving as a judge;
3. Four chairs or former chairs of a committee or section of the Association appointed by the President to serve during the President's term;
4. Persons appointed by the President to serve during abstention of particular committee members, and



5. Up to two at-large members appointed by the President to serve during the President's term in office.

No member shall be elected for more than one full term. The President may appoint the presidential appointees to short terms in order to stagger terms of appointed members. A vacancy in the office of an elected member shall be filled by election to serve for the unexpired term. The Committee shall organize annually after the Association's Annual Meeting.

## **COMMITTEE MEMBER AND INVESTIGATOR RULES**

All members of the Committee and all Investigators shall refrain from the following activities during their respective terms:

1. Attending judicial political fundraising events.
2. Contributing to Lancaster County Court of Common Pleas candidates or participating directly or indirectly in any decision to contribute to a Lancaster County Court of Common Pleas judicial candidate, including contributing to any PAC which makes contributions to or supports, directly or indirectly, Lancaster County Court of Common Pleas judicial candidates. Contributions to Lancaster County Court of Common Pleas judicial candidates by immediate family members (spouse/significant other and children residing at home or in college) of Committee or Panel members also are prohibited.
3. Seeking election to any judicial or other public or political office.
4. Discussing any confidential investigations, discussion, deliberation or action of the Committee or any Investigator.
5. Endorsing a candidate for the Lancaster Court of Common Pleas judicial office or allowing the use of one's name to promote or support such a candidate.



6. Participating in the evaluation process of a candidate who the Committee or Investigator previously had supported via campaign contributions, or otherwise, within a period of five years prior to the date of the current election. Under these circumstances, the Committee or Investigator must excuse himself/herself from that particular candidate's evaluation.
7. Participating in the evaluation process of a candidate where a Committee or Investigator and/or his/her family member previously had been represented by a candidate or a member of the candidate's law firm within a period of five years prior to the date of the current election. Under these circumstances, the Committee or Investigator must excuse himself/herself from that particular candidate's evaluation.
  - a. Failure to comply to the above conditions shall result in removal of the member from the Committee or Investigative Panel.
  - b. The Committee may adopt further regulations for itself and for the Investigators that are consistent with the Committees purpose and with the intent and objectives of these Rules.

## **INVESTIGATORS**

The Investigator shall be responsible for conducting the initial candidate interview. The Investigator also is responsible for contacting individuals who have had professional or personal dealings with the candidate. Following the investigation, the Investigator shall submit a report to the Chair of the Committee. The report shall be confidential. The Investigator shall make every reasonable attempt to attend the Committee's interview with the candidate. Following the interview, the Committee shall receive further input from the Investigator, who then shall depart the meeting prior to the Committee's determination of a rating for the candidate.

## **SELECTION OF INVESTIGATIVE PANEL MEMBERS**



1. The Chair of the Judiciary Committee shall appoint Investigators and the Investigators collectively shall form an Investigative Panel.
2. Investigative Panel members shall be bound by the same rules as members of the Committee.

### **TRAINING OF INVESTIGATIVE PANEL MEMBERS**

1. On a periodic basis, the Committee shall hold a convocation in a central location where all Investigative Panel members shall receive uniform instruction on how to conduct themselves as members of an Investigative Panel.
2. A training manual containing at least the following shall be provided to each Investigative Panel member:
  - a. Explanation of evaluation process;
  - b. Role of the Investigators;
  - c. Rules of the Investigators;
  - d. Timetable for evaluations;
  - e. Suggested questions for candidates and areas for further investigation of candidates;
  - f. Candidate's questionnaire;
  - g. Judicial Campaign Advertising Guidelines;
  - h. Canon 7 of the Pennsylvania Code of Judicial Conduct; and
  - i. Commission ratings criteria.

### **PROCEDURE AS TO FORMER OR RETIRED JUDGE**

Whenever a Judge of the Court of Common Pleas of Lancaster County is about to retire, the Committee shall notify the Administrative Office of Pennsylvania Courts of the existence of the Committee and request the Administrative Office to notify the Committee if the Judge files a certificate of availability. After such notification from the Administrative Office, the Committee shall consult on a confidential basis with members of the Bench and of the Bar who have firsthand knowledge of the



Judge's ability to serve, physical or otherwise. The Committee shall transmit its recommendations, if any, to the Administrative Office within ten (10) days after receipt of notification.

## **EVALUATION PROCEDURE**

The evaluation process may commence as soon as a candidate makes herself/himself known to the Committee. A letter and questionnaire shall be sent to the candidate from the Committee, which explains the ratings process and asking the candidate to complete the questionnaire by a particular return date. Thereafter, the evaluation process progresses as described below.

1. Investigator is appointed.
2. The candidate's questionnaire is returned and the Committee shall assign an Investigator to schedule an interview with the candidate in his/her office.
3. Interviews with individuals who have knowledge of the candidate shall be scheduled and conducted by the Investigator. For retention candidates, if the Investigator finds no new information of substance, the Investigator conducts an abbreviated interview with candidate (phone interview acceptable) and such additional interviews/investigations as deemed appropriate based upon interview of candidate.
4. Once the candidate interview and field work are completed, the Investigator shall submit a written report to the Chair of the Committee on the results of the investigation. The report is confidential. For retention candidates, the Investigator prepares a report, which may be substantially the same as the prior report, with update.
5. The Committee will schedule interviews with candidates and use information from the Investigator to ask questions during the candidate's interview.



6. Following the candidate's interview, the receipt of input from the Investigator and the Investigator departing the meeting, the Committee shall deliberate and agree upon a rating for the candidate.
7. If a candidate receives a rating of "Not Recommended" from the Committee, the candidate shall be notified and provided an opportunity to withdraw his/her name within a specific, short time frame. If the candidate elects to remain in the race, the rating shall be publicly announced.
8. Any candidate receiving a rating of "Recommended" or "Highly Recommended" from the Committee shall likewise be notified and provided an opportunity to withdraw his/her name within a specific, short time frame. If the candidate elects to remain in the race, the rating shall be publicly announced.
9. Where possible, ratings will be announced on a date prior to the endorsement of the judicial candidates by their respective political parties.
10. Withdrawal. The Committee shall not release the rating of a person who publicly withdraws from seeking a judgeship before the Committee has released its rating to the public. If such person later becomes a candidate in the same election, however, the Committee shall release the rating to the public.
11. Write-in Candidate. If a prospective judicial candidate has not filed a petition to be placed on the ballot, and has not participated in the judicial review process, but seeks the position of Judge of the Court of Common Pleas of Lancaster County as a write-in candidate, the Committee shall evaluate the candidate using information available to it and shall inform the public through methods it deems appropriate of its rating of that candidate.

## **RATINGS CRITERIA**

The criteria which the Committee shall use to evaluate candidates are attached hereto and incorporated herein as Exhibit "A."

## **RATINGS NOMENCLATURE AND RATIONALE**



1. The Committee shall rate candidates as being one of the following: "Highly Recommended," "Recommended," or "Not Recommended."
2. Failure to Submit. If an interested person fails to submit to any or all of the review process, but files a petition to be placed on the ballot, the Committee has authority to request that the candidate submit to the Committee's review procedure. If that candidate declines to submit to the Committee's review and rating procedure, the Committee shall evaluate the candidate with the information available to it and shall inform the public through methods it deems appropriate of its rating of that candidate. A candidate may request to be re-evaluated in each new election cycle.
3. Rationale for rating:
  - a. The Committee shall provide a written rationale which supports each candidate's rating.
  - b. The Chair of the Committee shall assign a Committee member to prepare the written rationale for each candidate's rating. The draft rationale then will be distributed to all Committee members for comment and approved for publication by the Chair of the Committee.

### **PUBLIC ANNOUNCEMENT OF RATINGS**

1. A candidate shall be notified promptly of his or her rating.
  - a. If, within the period established by the Committee, a candidate withdraws from the race, the candidate's rating will not be made public except as otherwise set forth herein.
  - b. If a candidate elects to remain in the race, the candidate's rating shall be publicly announced and disseminated to the candidate in addition to the media. Such announcement shall be prior to state party endorsements whenever possible.
  - c. The Committee Chair and the sitting LBA President, consistent with the LBA Public Statement Policy, shall be available to the media for questions or information concerning the Committee's ratings of candidates and related issues.



2. At the public announcement of the ratings, the following shall be made available to the media:
  - a. Committee Organization and Rules;
  - b. The makeup of the Committee per the Bylaws;
  - c. Definitions of Criteria and Ratings; and
  - d. Rationale for Individual Candidates' Ratings.

### **EVALUATION PROCEDURE FOR JUDICIAL RETENTION CANDIDATES**

All Lancaster County Court of Common Pleas judges who stand for retention election shall be subject to the same evaluation procedures as those set forth in Section II, above with the following exceptions and clarifications:

1. The Committee shall appoint an Investigator to review the candidacy of each retention candidate.
2. A revised and shortened form of questionnaire will be used for all retention candidates. At least three opinions authored by the retention candidate within the last three to five years shall be identified as part of the response to the questionnaire. The Investigator shall interview at least five lawyers who personally have appeared before the retention candidate, and such other interviews as may be appropriate. Thereafter, the Investigator shall submit a report to the full Committee.
3. If the report submitted by the Investigator to the Committee is "with concern," the Chairman of the Committee shall immediately write to the candidate to report that, on the basis of the report received from the Investigator, it would be in the candidate's best interest to submit to an interview with the full Committee, which the Investigator shall attend. Failure to attend the requested interview may have probative weight in the Committee's determination of a rating.
4. If the report submitted by the Investigator comes to the Committee "without concern," the Committee shall proceed to discuss the candidate with the Investigator and thereafter, to render its evaluation and recommendation. Following discussion with the Investigator, if the Committee has further questions of the candidate, the questions shall be reduced to writing and sent to the candidate for immediate response, or the



candidate may be requested to appear before the Committee. Failure to respond to such written questions, or appear before the Committee if requested, may have probative weight in the Committee's determination of a rating.

5. The Committee shall rate judicial retention candidates as being either:  
"Recommended" or "Not Recommended."
6. A retention candidate for the Lancaster County Court of Common Pleas who refuses to participate in the Committee's evaluation process shall be evaluated based on information available to the Committee and the Committee shall inform the public through methods it deems appropriate of its rating of that candidate for retention.
7. As with candidates for elective judicial office, the Committee may provide a written rationale, which supports each candidate's rating consistent with the ratings nomenclature, and rationale procedures set forth above. Retention candidates who receive a rating of "Not Recommended" from the Committee shall be so notified and provided an opportunity to withdraw their name from the ballot within a specific, short time frame. Such retention candidates also may seek reconsideration of their rating for cause shown pursuant to the procedures set forth above.

## **PUBLIC EDUCATION AND INVOLVEMENT WITH JUDICIAL CAMPAIGNS**

1. Media Relations
  - a. LBA and Committee leaders will endeavor to communicate with newspaper editorial boards to explain the evaluation ratings process prior to the dates of each judicial election.
  - b. The Chair of the Judiciary Committee or his or her designee shall serve as a "clearinghouse" for information about Lancaster County Court of Common Pleas judicial candidates.
  - c. The LBA shall have the right, but not the obligation, to prepare feature articles on the importance of the election of highly qualified judges to the Lancaster County Court of Common Pleas.
  - d. The Committee shall publish candidates' ratings on the LBA web site.



2. Public Education: The LBA may:
  - a. Issue a press release advising the public of the Committee' ratings of candidates.
  - b. Recruit speakers to address civic and other groups to emphasize the importance of electing highly qualified judges to the Lancaster County Court of Common Pleas.



## JUDICIARY COMMITTEE RATINGS CRITERIA

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### **STANDARDS FOR EVALUATION FOR JUDICIAL CANDIDATES**

**Overview:** Candidates may be questioned, both by the Investigator and by Committee members, on a wide range of subjects, but a candidate should not be required to indicate how the candidate would decide issues of substantive law that may arise in future litigated cases. There should be no issue-oriented litmus test used in the evaluation of a candidate. No candidate will be excluded from consideration because of race, religion, creed, national origin, sex, sexual orientation, age or handicap, so long as the candidate satisfies the constitutional standards for judicial service. A candidate's ideas concerning the role of the judicial system and judges are relevant subjects of inquiry.

**This Evaluation shall be made for those individuals who are being considered for election, retention or appointment to the Court of Common Pleas of Lancaster County, and other judicial positions consistent with the then adopted LBA bylaws:**

#### **1. Legal ability sufficient to have earned the respect of lawyers and members of the bench.**

A candidate should possess a high degree of knowledge of established legal principles and procedures and have a high degree of ability to interpret and apply them to specific factual situations. A sitting judge seeking retention should have demonstrated over time, his or her knowledge of established legal principles and procedures as well as a high degree of ability to interpret and apply them to specific factual situations.

Legal knowledge may be defined as familiarity with established legal principles and evidentiary and procedural rules. Legal ability is the intellectual capacity to interpret and apply established legal principles to specific factual situations and to communicate, both orally and in writing, the reasoning leading to the legal conclusion. Legal ability also connotes certain kinds of behavior by the judge such as the ability to reach concise decisions promptly once the candidate is



apprised of sufficient facts, the ability to respond to issues in a reasonably unequivocal manner and to grasp quickly the essence of questions presented.

Legal knowledge and ability are not static qualities, but are acquired and enhanced by experience and by the continual learning process involved in keeping abreast of changing concepts through education and study. A candidate should possess a high level of legal knowledge and a ready knowledge of rules of evidence; however, a candidate should not normally be expected to possess expertise in any particular substantive field. More important is the demonstration of an attitude reflective of willingness to learn the new skills and knowledge which will from time to time become essential to a judge's performance and of a willingness to improve judicial procedure and administration.

**2. Trial or other comparable experience which ensures knowledge of the rules of evidence and courtroom procedures.**

A candidate should be an experienced lawyer, licensed in the jurisdiction in which the candidate seeks to be a judge. An otherwise outstanding lawyer should not be deemed unqualified solely because of lack of trial experience.

A candidate should be admitted to practice law in the jurisdiction in which the candidate seeks to be a judge. The length of time that a lawyer has practiced is a valid criterion in screening applicants for judgeship. Such professional experience should be long enough to provide a basis for the evaluation of the candidate's demonstrative performance and long enough to ensure that the candidate has had substantial exposure to legal problems and to the judicial process.

It is desirable for a candidate to have had substantial trial experience and a knowledge of the litigation process. Trial experience includes the preparation and presentation of matters of proof and legal argument in an adversary setting. The extent and variety of the candidate's experience in actual trials also should be considered and weighed heavily. However, other types of legal experience also should be carefully considered, such as negotiation and mediation skills. A private practitioner, a law teacher or corporate, government or public interest attorney may have experience which will contribute to successful judicial performance. Outstanding persons with such experience should not be deemed unqualified solely because of lack of trial experience. The depth and breadth of that professional experience and the competence with which it has been performed, rather than the candidate's particular type of professional experience should be considered.



### **3. A record and reputation for excellent character and integrity.**

A candidate's personal and professional actions should demonstrate consistent adherence to high ethical standards. A candidate should be of undisputed integrity.

The candidate's record and reputation for consistent adherence to high ethical standards is of the highest importance. The reputation of the candidate for truthfulness and fair dealing in both legal and extra-legal contexts also is of great importance.

The integrity of a judge is the keystone of the judicial system, for it is integrity which enables a judge to disregard personal prejudices, personalities and partisan political influences so that decisions are based solely on the facts and the law applicable to those facts. Therefore, it is imperative that a judicial candidate's integrity and character with regard to honesty and truthfulness be above reproach.

### **4. Financial responsibility.**

A candidate should be financially responsible.

The demonstrated financial responsibility of a candidate is one of the factors to be considered in assessing the candidate's ability to fulfill the responsibilities of judicial office. Whether there have been judgments or liens or bankruptcy proceedings instituted by or against a candidate and whether the candidate has promptly and properly filed all required tax returns may be relevant to financial responsibility. Financial responsibility demonstrates self-discipline and the ability to withstand pressures which might compromise judicial independence and impartiality.

### **5. Judicial temperament.**

A candidate should possess judicial temperament, which includes patience, courtesy, impartiality, even temper, a well-defined sense of justice, compassion, fair play, humility, tact, common sense and understanding. Because the judicial function is essentially one of facilitating conflict resolution, judicial temperament requires an ability to deal with parties and counsel calmly and courteously, and the willingness to hear and consider the views of all sides. It requires the ability to be even-tempered, yet firm; open-minded, yet willing and able to reach a decision; confident, yet not egocentric. Because of the broad range of topics and issues with



which a judge is typically required to deal, judicial temperament requires a willingness and ability to assimilate data outside the judge's own experience. Moreover, it requires an even disposition coupled with a keen sense of justice and a recognition that the administration of justice and the rights of the parties transcend the judge's personal feelings and desires. Judicial temperament implies, among other things, an absence of arrogance, impatience, and arbitrariness.

#### **6. Mental and physical capacity sufficient to discharge fully the duties of judicial office.**

Consistent with the canons of judicial ethics, a candidate should possess the requisite mental and physical capacity needed to discharge fully the demanding duties of judicial office.

A candidate should be in good mental and physical health. Good health embraces a condition of being sound in body and mind with relative freedom from physical disease or pain. A history of a past disabling condition or suggestion of a current disabling condition should require further inquiry as to the degree of impairment, consistent with applicable law. A serious health condition should be considered carefully to determine what possible effect it may have on the candidate's ability to perform the duties of a judge and whether such duties may be discharged with or without reasonable accommodations. Medical documentation of current health status may be necessary. However, diseases or impairments which do not prevent a candidate from performing essential judicial duties should not be a cause for rejection of a candidate, consistent with applicable law.

Good health also includes an absence of erratic or bizarre behavior which would significantly affect the candidate's functioning as a fair and impartial judge. A candidate should be free from current abuse of alcohol or drugs and should be able to handle stress constructively in an emotionally charged environment.

#### **7. Record of community involvement.**

A candidate should have a record of involvement in public service, community affairs, pro bono activities or other volunteer efforts in an effort to improve the quality of life of others in the community. A candidate should be aware of and sensitive to the diversity of the general community.



The rich diversity of backgrounds among members of the judiciary is an important strength of our judicial system and, therefore, a candidate's non-legal experience should be considered together with the candidate's legal experience. Participation in public service and pro bono activities adds another dimension to the qualifications of the candidate.

Experience which provides an awareness of and sensitivity to people and their problems may be just as helpful in the decision-making process as knowledge of the law. Active involvement in community and civic affairs, pro bono activities and other kinds of public service are important aspects of a candidate's qualifications. It is desirable that a candidate have broad life experiences.

#### **8. Administrative ability.**

A candidate should possess past administrative experience or strong administrative skills needed to administer justice effectively, fairly and efficiently.

Increasingly, judges are called upon to possess strong administrative skills in order to balance effectively the demands of long court lists and complex litigation. Effective administrative skills are necessary for judges to dispose of cases within reasonable time limits without sacrificing the legitimate needs of individual litigants or their counsel.

#### **9. Devotion to improvement of the quality of justice.**

A candidate should demonstrate, as part of the candidate's professional life, efforts directed at improving the quality of justice for all citizens.

It is the responsibility of every attorney to work toward maintaining the integrity and improving the competence of the bar to meet the highest standards of legal practice.

Attorneys, by reason of education and experience, are well-qualified to recognize strengths and deficiencies in the legal system. Therefore, they should participate in proposing and supporting initiatives to improve or preserve the system. Such efforts might include, among others, active participation in the work of local, state and national professional associations and organizations.



**10. Demonstrated sound judgment in one's professional life.**

A candidate should demonstrate sound judgment in his or her professional life.

A candidate should demonstrate reliability, diligence, perseverance, common sense and attentiveness. A candidate should possess good work habits and the ability to set priorities in relation to the importance of the tasks to be accomplished.

A candidate should meet procedural deadlines, keep appointments and commitments, and respect the time of litigants, lawyers, judges, and court personnel.