



STATE OF TENNESSEE
JUDICIAL NOMINATING COMMISSION

BYLAWS

These bylaws are adopted pursuant to Tenn. Code Ann. §17-4-105(c). They are intended to guide the conduct of the business of the Judicial Nominating Commission (“Commission”) in the discharge of its duties. These bylaws and any rules of procedure adopted by the Commission should be construed toward the end that the purpose of the Commission, set out in Tenn. Code Ann. § 17-4-101, is accomplished. It is the responsibility of the Commission to nominate judges on the basis of their ability, personal integrity, impartiality, judicial temperament, legal training, and physical and mental vigor necessary for the arduous work of the positions of trial and appellate judges by a merit system that will both permit and encourage a high degree of just, efficient, and ethical conduct in the performance of judicial duties.

I. **Oath.** Before participating in the nomination process of the Commission, each Commission member shall be required to give and sign the following oath:

I, (repeat your name), solemnly swear (or affirm) that I will, to the best of my ability, conscientiously and in good faith assume the responsibilities and perform the duties required of me as a member of the Tennessee Judicial Nominating Commission; and to preserve the integrity of the Commission and encourage free and candid discussion of the potential nominees before it, I shall not reveal, indicate or hint how any other member voted on any potential nominee; and I shall vote for the nomination of those who are in my opinion the best qualified for appointment to the courts with which the Commission is concerned. So help me God.

II. **Officers.** The Commission shall elect, from its membership, a chairperson, vice-chairperson and secretary. The terms of office shall end on August 31 of each year. The chair shall alternate between a member appointed by the Speaker of the Senate (including the member appointed jointly) and a member appointed by the Speaker of the House (also including the member appointed jointly). Also, for each six terms of office, the chair shall be held for two terms by a Commission member from the eastern grand division of the state, two terms by a Commission member from the middle grand division of the state, and two terms by a Commission member from the western grand division of the state.

III. **Meetings, Public Hearings, and Voting.**

A. The Commission shall meet as frequently as required for the purpose of electing officers and conducting other appropriate business.

B. Meetings and public hearings may be called by the Chairperson or five (5) members of the Commission on seven calendar days notice. In order to secure the participation of a maximum number of Commission members and in view of the statutory condition of attendance by Commission members for continued service on the Commission, the date of any meeting or public hearing should be determined by a poll of the members of the Commission to determine the meeting date on which the maximum number of members can be present.

C. The selection and certification of a judicial nominee to the Governor requires the assent of nine members of the Commission. Amending the By-Laws and Rules of Procedure requires an affirmative vote of nine members of the Commission. All other actions of the Commission shall be taken by a majority vote of the members of the Commission present.

D. On any matter other than the selection and certification of a judicial nominee candidate, discussion and voting may be conducted by electronic means, so long as a record of the discussion and vote is made in writing and is maintained for public inspection by the Administrative Office of the Courts and the voting is conducted by "public ballot" so as to comply with Tennessee Code Annotated § 8-44-104.

IV. **Quorum.** The presence of nine (9) voting members of the Commission shall constitute a quorum.

V. **Information / Application Forms.** The Commission shall require that every applicant, prior to consideration by the Commission, submit an application questionnaire on the form approved by the Commission. The completed questionnaires shall be submitted to the Administrative Office of the Courts for distribution to the Commission members.

VI. **Investigations.** The Commission shall conduct or have conducted such investigations of all applicants or specific applicants as it deems necessary. Members of the Commission are encouraged to conduct investigations in order to make the most information possible available to the Commission in the performance of its duties.

VII. **Minutes.** The Commission shall keep minutes of its official meetings and hearings. A copy of such minutes shall be furnished to each member of the Commission by the Director of the Administrative Office of the Courts. The minutes shall be open to public inspection.

VIII. Hearings.

A. Upon receiving information that a vacancy has occurred in any court with which the Commission is concerned, the Director of the Administrative Office of the Courts shall notify each Commission member of the vacancy, a poll of Commission members should be conducted to determine a date for a meeting, and then the Chairperson shall call a public hearing of the Commission to be held in the judicial district or grand division of Tennessee from which such vacancy is to be filled. All meetings shall be held in the location and timeframe required by Title 17, Chapter 4, Part 1 of Tennessee Code Annotated. If reasonably possible under the circumstances, meetings should be conducted in time to allow for a second meeting within the timeframe required by Tennessee Code Annotated, Title 17, Chapter 4, Part 1.

B. Notice of the time, place and purpose of the meeting shall be given by the Chairperson to the Director of the Administrative Office of the Courts who will notify newspapers, radio news, television news, on the website of the Administrative Office of the Courts, and by such other means as the Commission deems proper.

C. Notice shall request that any application be submitted to the Director of the Administrative Office of the Courts at least ten (10) days prior to the hearing.

IX. Manner of Nominations. Within sixty (60) days after receiving notice from the Governor that a vacancy has occurred, the Commission shall certify to the Governor the names of three (3) nominees for such vacancy, unless less than three applicants apply or receive a majority vote of the Commission, or unless less than three names are otherwise required to be submitted under Tennessee Code Annotated, Title 17, Chapter 4, Part 1. Within sixty (60) days after receiving notice from the Governor requiring three (3) additional names for an appellate court vacancy, the Commission shall submit the names of three (3) nominees for such vacancy to the Governor. The names of the nominees, listed in alphabetical order, shall be provided to the Governor by the Chairperson of the Commission, or by the Director of the Administrative Office of the Courts. Copies of the nominees' questionnaires and other information gathered by the Commission during its investigations shall be furnished to the Governor by the Director of the Administrative Office of the Courts.

X. Qualifications of Nominees. When selecting nominees, the Commission shall give consideration to the legislative declaration found at Tennessee Code Annotated § 17-4-101, which should include consideration of the following non-exclusive list of factors and questions with respect to each proposed nominee:

- a. The integrity and moral courage of the applicant.
- b. The legal ability and experience of the applicant.
- c. The intelligence and wisdom of the applicant.
- d. Whether the applicant would be deliberate and fair minded in reaching decisions.
- e. Whether the applicant would be industrious and prompt in performing his or her duties as a judge.

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- f. Whether the personal habits and outside activities of the applicant are compatible with judicial office; and,
- g. Whether the applicant would be courteous and considerate on the bench.

XI. Voting Procedures

- A. Final voting procedures to nominate to the Governor qualified applicants will take place at the following time and in the following manner:
 - (1) After the commissioners have had an opportunity to review the applications, supporting data, and all other pertinent information.
 - (2) After the applicants have been interviewed to the satisfaction of a majority of the commission members present and voting.
 - (3) After sufficient discussion of applicants has occurred, as determined by a majority of the commission members present and voting.
 - (4) No straw vote, unofficial vote, tentative vote, or official vote will take place before the above-described steps have been taken. No absentee voting shall be permitted at any stage of the nomination process.
- B. Upon the list of applicants, each Commission member present and voting must cast by secret ballot three votes in favor of three separate applicants deemed qualified for nomination to the court vacancy under consideration.
 - (1) If three applicants receive nine (9) or more votes, then the three applicants with the highest number of votes are nominated and all other applicant(s) are eliminated. Otherwise, any applicant receiving nine (9) or more votes is nominated, and the applicants receiving the most votes shall be considered further.
 - (2) The applicant(s) receiving the least number of votes will be eliminated from further consideration.
- C. Upon the list of applicant(s) remaining, each Commission member must cast by secret ballot a vote for each of the nomination spots that remain unfilled.
 - (1) An applicant(s) receiving nine (9) votes is nominated.
 - (2) Applicant(s) receiving the least number of votes will be eliminated from consideration.
- D. The voting process shall be repeated until three nominees have been selected or until all applicants are eliminated.

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XII. **Ethical Considerations.** In the performance of their duties, judicial nominating commission members should be ever mindful that they hold positions of public trust. Commission members should not conduct themselves in a manner which reflects discredit upon the judicial nomination process. Consideration of nominees should be impartial, discreet, objective, and without regard to political affiliation.

A Commission member shall disclose to other Commission members any personal and business relationships with an applicant that may directly or indirectly influence the decision of the Commission Member. It is anticipated that Commission member will know, or have information about, many of the applicants. Often a Commission Member will have worked with, or against, one or more of the applicants in legal, business or civic matters. This assists, and is intended as a part of, this nomination process. It does not disqualify a Commission member from taking part in the hearings or voting. A Commission member should disqualify him or herself from the appropriate portion of the consideration or the voting where the Commission member believes that because of prior information, or relationships, the commissioner will not be able to fairly consider all of the applicants.

XII. **Records of the Commission.** The records of the Commission shall be kept by the Administrative Director of the Courts and shall be public in accordance with Tenn. Code Ann. § 17-4-109(d) and § 8-44-104(a). Questionnaires shall be open to inspection upon filing with the Administrative Office of the Courts and the Commission may publicize the names of persons who apply for nomination and the names of those persons the Commission nominates to the Governor for the judicial vacancy in question.

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