

State of New York Commission on Judicial Nomination

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INTRODUCTION

This brochure is designed to provide an overview and explanation of the role and process of the State of New York Commission on Judicial Nomination. We invite all interested parties to review the extensive information and authorities set forth on the Commission's website: <http://www.nysegov.com/cjn/>.

This website includes: a description of the Commission's role and operation; a list of the Commission's members; the legal sources for the Commission's actions; Commission press releases from 2007 to date; and a list of all historical nominees forwarded to the Governor since the Commission's inception. Inquiries may be directed to the Commission through its Counsel, Henry M. Greenberg, Esq., as indicated above.

BACKGROUND OF THE COMMISSION

Created in 1977 by an amendment to the New York State Constitution, the Commission on Judicial Nomination plays an important role in our State's government: its purpose is to see that the judges who sit on New York's highest court, the Court of Appeals, are chosen from candidates who reflect the diversity of New

York's citizenry and are among the State's most highly qualified and accomplished judges, practicing lawyers and legal scholars. Since its inception, the Commission has fulfilled this function by nominating to the Governor a small number of carefully considered candidates to fill vacancies on the Court of Appeals. The Commission's mandate is a powerful one: the Constitution requires that the Governor choose Judges of the Court of Appeals only from the nominees of the Commission.

BACKGROUND OF THE COURT OF APPEALS

The Commission's mandate reflects the importance of the Court of Appeals itself. In addition to being the highest court of the State of New York, the Court of Appeals is considered to be one of the most significant courts in the country. It plays a key role not only in interpreting the law of the State of New York, but in shaping precedent across the nation.

The Court of Appeals consists of a Chief Judge and six Associate Judges, each of whom is appointed for a fourteen-year term and is subject to mandatory retirement at age 70. The Judges of the Court collectively decide all motions and appeals before them, thus demanding from the members of the Court not only legal excellence but also collegiality and a commitment to consensus-building. Since much of the Court's caseload is selected by the Court itself through motions for leave to appeal, the Court is able to concentrate on the most important appeals.

THE COMMISSION'S MANDATE

The State Constitution mandates that the Commission nominate candidates for the Court of Appeals on the basis of merit. The

Constitutionally-prescribed composition of the Commission, as well as the rules and regulations governing its selection procedures, ensure that the Governor is provided with nominees who are well qualified to serve on the Court of Appeals. The Commission is committed to considering nominees for the Court of Appeals with outstanding personal and professional qualifications who reflect the diversity of New York's citizenry including, but not limited to, diversity in race, ethnicity, gender, religion, sexual orientation, community service, nature of legal practice or professional background and geography.

THE COMPOSITION OF THE COMMISSION

The twelve-member Commission is appointed on a multi-partisan basis. The Constitution achieves this multi-partisan structure by authorizing various public and judicial officials to appoint the Commissioners. Appointments to the Commission are divided evenly among the three branches of government: the Governor and the Chief Judge of the Court of Appeals each appoint four members to the Commission; the Speaker of the Assembly, the Assembly Minority Leader, the Senate Majority Leader and the Senate Minority Leader each appoint one member.

No member of the Commission may hold an elected or judicial office, or serve as an officer in a political party. Only two former judges may serve on the Commission at any time. At least four members of the Commission must be non-lawyers. The Commissioners have traditionally come from both public and private life, from business, professional and education as well as legal and political backgrounds, and from across New York State. The Commissioners are not compensated for their service, and each serves a four-year term.

ELIGIBILITY REQUIREMENTS FOR NOMINEES

In order to qualify for nomination, a candidate must be a resident of New York State and have been admitted to practice law in New York for at least 10 years. There are no other eligibility requirements. For example, a candidate need not have prior service as a judge and need not be a practicing lawyer.

THE PRE-NOMINATION PROCESS

Whenever a vacancy on the Court of Appeals arises, the Commission begins the nomination process with extensive public notice of the vacancy, including dissemination of the notice through the Commission's and other governmental websites, the media, bar associations, law schools, the Office of Court Administration, and all groups and individuals that request information updates from the Commission. In addition, the Commission, if practicable, holds informational meetings in areas around the State. The Commission also identifies and reaches out to specific potential candidates.

To make the application process easier, the Commission, whenever possible, uses a two-step application procedure in which a candidate's initial submission consists of a short-form questionnaire, including a resume, a statement setting forth the candidate's qualifications and interest in seeking nomination, and any other materials the candidate wishes to include. If the Commission determines that a candidate merits an interview by the full commission, the candidate is asked to submit a full questionnaire.

The Commission strives to obtain as complete a picture of candidates' qualifications and achievements as possible. In addition to the

questionnaires and personal statements, the Commission considers writing samples of the candidates and judicial decisions, if any. The Commission also considers each candidate's reputation in the community, and information provided by colleagues, adversaries, and others who have come into contact with the candidate during his or her career.

After gathering such relevant information, the Commission meets as a body to interview each of the final round of candidates under consideration. The candidates in the final group considered by the Commission must also submit full information on their finances.

Only after this review process do the Commissioners cast votes to determine which candidates will be submitted to the Governor as well qualified to serve on the Court of Appeals. The voting procedures used by the Commission ensure that no candidate will be recommended to the Governor without broad support from a large majority of the Commission, including the favorable votes of at least eight of the twelve Commissioners. All proceedings and records of the Commission are confidential by statute.

THE NOMINATION PROCESS

For a vacancy in the office of Associate Judge, the Commission is required to nominate between three and seven candidates to the Governor. For the office of Chief Judge, the Commission must nominate seven candidates. The Commission does not rank the nominees submitted to the Governor. The Governor, with the advice and consent of the Senate, may only appoint judges to the Court of Appeals from the list of candidates nominated by the Commission.

In this way, the Commission fulfills its duty to the citizens of this State by making sure that

our State's highest court — our "court of last resort" — is served by highly qualified and dedicated judges.

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