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Merit Selection of Judges

ARTICLE I

General Provisions

Sec. 51-44a-1. Creation

The Judicial Selection Commission was established by section 2 of article twenty-five of the amendments to The Constitution of the State of Connecticut, and section 51-44a of the General Statutes. The commission consists of twelve members appointed as provided by section 51-44a of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-2. Authority

(a) The commission shall seek qualified candidates (including incumbent judges seeking appointment to a different court) for consideration by the governor for nomination as judges for the superior court, appellate court, and supreme court, as provided by section 51-44a (f) of the General Statutes,

(b) The commission shall evaluate incumbent judges who seek reappointment to the same court, as provided by section 51-44a (e), of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-3. Principal office and official address

(a) The principal office of the commission is located at 165 Capitol Avenue, Room 241, Hartford, CT 06106.

(b) All communications shall be addressed to the Judicial Selection Commission at its principal office.

(Effective December 22, 1994)

Sec. 51-44a-4. Commission operation-signature of documents

(a) The members of the commission shall elect a chair from among the members appointed by the Governor, as provided in section 51-44a (c) of the General Statutes.

(b) The commission's recommendations and findings shall be signed by the chair on behalf of the commission.

(Effective December 22, 1994)

Sec. 51-44a-5. Applicability of regulations

These rules govern practice and procedure before the Judicial Selection Commission of the State of Connecticut under the applicable laws of the State of Connecticut, except where otherwise provided by statute.

(Effective December 22, 1994)

Sec. 51-44a-6. Definitions

The definitions provided by section 51-44a of the General Statutes govern the interpretation and application of sections 51-44a-1 to 51-44a-21, inclusive, of these regulations. In addition, and except as otherwise required by the context:

(1) "Candidates for judicial office" means persons who have submitted complete applications for consideration for appointment as a judge and judges who have submitted completed applications for reappointment to the same court or appointment to a different court.

(2) "Commission" means the Judicial Selection Commission of the State of Connecticut.

(3) “Commissioner” means a person appointed to serve as a member of the commission when acting as such.

(4) “Chair” means the commissioner elected to preside at all meetings and any hearing of the commission pursuant to section 51-44a of the General Statutes. The members of the commission may, by vote, designate a vice chair or another commissioner to serve as chair in the event the commissioner elected chair is for any reason unable to serve.

(5) “Interview” means the portion of the commission procedures, as authorized by section 51-44a of the General Statutes, in which the commission meets with and interviews a candidate for judicial office.

(6) “Preliminary examination” means the procedure used by the commission, including any background investigation; public comment; comment from the Connecticut Bar Association Judiciary Committee, the Judicial Branch Chief Court Administrator, the Statewide Grievance Committee, and any report and recommendation from the Judicial Review Council; applications and related documents submitted to the commission; and an interview of a candidate by which the commission makes a decision whether or not to recommend a candidate for consideration for judicial appointment or to conduct a hearing as provided in section 51-44a (e) of the General Statutes.

(7) “Hearing” means the proceedings by which the commission makes further inquiry concerning an incumbent judge following a preliminary examination, as provided in section 51-44a (e) of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-7. Staff

The commission shall employ such staff as is necessary for the performance of its functions and duties, as provided in section 51-44a (k), of the General Statutes.

(Effective December 22, 1994)

ARTICLE II

Procedure for Consideration of Candidates for Judicial Office

Sec. 51-44a-8. Solicitation of candidates

(a) As provided in section 51-44a (f) of the General Statutes, the commission shall seek qualified candidates for consideration by the Governor for nomination as judges for the Superior Court, Appellate Court and Supreme Court.

(b) All candidates seeking consideration for appointment to judicial office, including incumbent judges seeking reappointment, or appointment to a different court, shall complete the appropriate application forms promulgated by the commission.

(c) The commission shall seek such background information as it deems appropriate, including interviews with the bar, judges, and the general public on each candidate for judicial office, including incumbent judges seeking reappointment, or appointment to a different court, and including any transcript of a relevant public hearing, inquiry or proceeding prior to conducting an interview with the candidate.

(d) Prior to conducting an interview with judges seeking reappointment or appointment to a different court, the commission will obtain from the Judicial Review Council, pursuant to section 51-51q of the General Statutes, its recommendation concerning appointment or reappointment, including the report of any complaint filed against any such judge, the disposition of such complaint, and any investigation of such judge by the Judicial Review Council, provided the Judicial Selection

Commission shall not consider any investigation of the Judicial Review Council which resulted in the exoneration of a judge.

(e) Prior to conducting an interview with judges seeking reappointment or appointment to a different court, the commission will solicit comment from:

(1) The Connecticut Bar Association Judiciary Committee;

(2) The Judicial Branch Chief Court Administrator; and

(3) The practicing bar, by publishing notice in appropriate legal periodicals, including, but not limited to, the Connecticut Law Journal, the Connecticut Law Tribune, and the Connecticut Trial Lawyers publication. These notices will be placed in the periodicals sufficiently far in advance to insure that comments will be received before the first interview.

(Effective December 22, 1994)

Sec. 51-44a-9. Interviews

(a) The commission shall conduct an interview with each candidate for judicial office.

(b) The interview of a judge seeking reappointment shall be held at such a time that, if the commission votes that further inquiry is necessary and that the commission will hold a hearing, notice of the hearing, as provided in section 51-44a (e) can be sent to the judge not less than 180 days before the convening of the legislative session that will consider the judge's reappointment.

(Effective December 22, 1994)

Sec. 51-44a-10. Continuation of interviews

After commencing the interview of a candidate for judicial office, the commission may, upon a vote of a majority present and voting, continue the interview in order to obtain additional information concerning the candidate for judicial office before voting to recommend or not to recommend.

(Effective December 22, 1994)

Sec. 51-44a-11. Quorum and voting

(a) A quorum of the commission for taking official action, as determined in accordance with section 51-44a (e) and (i) of the General Statutes, shall be required for the commission to act.

(b) Votes of the commission on recommendations for the appointment as a judge or for reappointment as a judge shall be in accordance with section 51-44a (e) and (i) of the General Statutes.

(c) Within thirty days after the completion of the interview with a judge seeking reappointment, the commission shall vote whether it will then recommend that judge for reappointment. In the event that the commission determines that further inquiry is necessary, it shall proceed in accordance with section 51-44a (e) and (g) of the General Statutes to schedule and conduct a hearing. In no event shall any incumbent judge be denied a recommendation for reappointment without being afforded a hearing in accordance with the statutes.

(d) The chair shall promptly notify in writing each candidate for judicial office of the commission's decision whether to recommend or not to recommend.

(Effective December 22, 1994)

Formal Requirements

Sec. 51-44a-12. Hearings, record and procedure

(a) When further inquiry is necessary before a recommendation of reappointment may be made, the commission shall conduct a hearing in accordance with the procedure contained in section 51-44a (e) and (g) of the General Statutes.

(b) The commission shall conduct the hearing in such order and form and with such methods of proof as it deems best suited to the discovery of facts and to determine whether the incumbent judge has the legal ability, competence, integrity, character, and temperament for reappointment. The commission may receive any relevant documentary or oral evidence. The decision by the commission shall be based solely upon the evidence produced at the hearing together with any prior statements to the commission made by the incumbent judge.

(c) A list of witnesses, together with any statements or documents in the hands of the commission that will be used in the case in chief by the commission at the hearing, shall be produced for the use of the incumbent judge not less than ten days before the date of commencement of the hearing.

(d) All testimony at a hearing shall be given under oath to be administered by a person so authorized by statute.

(e) The chair or his designee from the commissioners who are lawyers shall decide all evidentiary issues.

(f) Witnesses may be examined or cross examined by any commissioner.

(g) A judge appearing at a hearing shall be entitled to counsel, to present evidence, and to examine and cross examine witnesses. The commission shall issue subpoenas requested by the judge or his or her counsel to require the attendance of witnesses and the production of any books or papers at the hearing.

(h) At any hearing held on an incumbent judge, a record of the proceedings shall be made by a court reporter or monitor designated by the commission.

(i) There shall be a presumption that each incumbent judge who seeks reappointment to the same court qualifies for retention in office.

(Effective December 22, 1994)

Sec. 51-44a-13. Subpoenas issued by the commission

Subpoenas may be issued and enforced by the commission as provided in section 51-44a (g) of the General Statutes.

(Effective December 22, 1994)

Sec. 51-44a-14. Minutes

Minutes shall be kept and maintained on the votes of the commission and other actions taken by it. The minutes shall be sent to all members of the commission as soon as possible after meetings.

(Effective December 22, 1994)

Sec. 51-44a-15. Decisions of the commission

Decisions of the commission on the recommendation of candidates for judicial office shall be final, subject to a request for a rehearing, as provided in section 51-44a (e) of the General Statutes.

(Effective December 22, 1994)

ARTICLE III

Confidentiality and Public Information

Sec. 51-44a-16. Public information

(a) The blank application forms for consideration for appointment as a new judge, for appointment to a different court, and for reappointment as a judge are public information.

(b) In January of each year, the chair of the commission shall report to the joint standing committee on judiciary as required in section 51-44a (m) of the General Statutes. These reports are public information.

(c) In order to prepare the annual report to the joint standing committee on judiciary, voluntary information regarding gender, race, religion, national origin, and years of experience as a member of the Connecticut Bar is requested of candidates. This data is used solely for the purpose of preparing the report to the joint standing committee on the judiciary, and is not public information.

(d) Where the commission determines, based on its preliminary examination, that further inquiry is necessary for a judge seeking reappointment to the same court and decides to conduct a hearing, the judge may request the hearing be open to the public, in which case the hearing will be open to the public.

(Effective December 22, 1994)

Sec. 51-44a-17. Confidential information

Except as provided in subsections (e) and (m) of section 51-44a of the General Statutes and section 51-44a-17 of these regulations, all investigations, deliberations, files, minutes, and records of the commission shall be confidential and not open to the public or subject to disclosure, pursuant to section 51-44a (j) of the General Statutes.

(Effective December 22, 1994)

ARTICLE IV

Qualifications and Criteria

Sec. 51-44a-18. Purpose of judicial selection commission in evaluating candidates for judicial office and judges for reappointment to the same court or to a different court

The Judicial Selection Commission believes that the fundamental role of judges in our system of law calls for judges to be individuals of the highest personal integrity, professional experience uncommon qualities of temperament, intelligence, and character. In evaluating candidates for judicial office and judges for reappointment to the same or a different court, the Judicial Selection Commission shall apply the standards and criteria contained in sections 51-44a-20 through 51-44a-21, inclusive, of these regulations.

(Effective December 22, 1994)

Sec. 51-44a-19. Minimum qualifications

(a) The following are the minimum qualifications for a candidate for judicial office.

(1) The candidate has a reputation for truth, faithfulness, honesty, integrity, and fair dealing.

(2) The candidate possesses “judicial temperament,” which means that he or she possesses those personal qualities of patience, industry, courteousness, demeanor and faithfulness to the duties of the office which are essential in a good jurist.

(3) The candidate possesses legal ability that is exemplified by professional excellence, a degree of intellect and a technical proficiency equal to that required by the highest standards of the practicing bar.

(4) The candidate’s physical or mental health is such that the candidate can fulfill the duties of the office with reasonable accommodation.

(b) The following considerations militating against recommendation will be given such weight as the Judicial Selection Commission believes appropriate, according to the circumstances:

- (1) Conviction of any crime since the candidate's admission to the bar.
 - (2) Censure by any grievance committee or court short of suspension or disbarment.
 - (3) Personal conduct and characteristics that are prejudicial to the performance of his or her duties as a judge.
- (Effective December 22, 1994)

Sec. 51-44a-20. Criteria for candidates for judicial office

The following criteria shall be considered in evaluating candidates for judicial office:

- (1) Does the candidate possess the statutory qualifications for office?
 - (2) Does the candidate possess the minimum qualifications under sections 51-44a-1 to 51-44a-21, inclusive, of these regulations for judicial appointment?
 - (3) Does the prospect possess legal ability that is exemplified by professional excellence, a degree of intellect and a technical proficiency equal to that required by the highest standards of the practicing bar?
 - (4) Is the candidate generally intelligent and knowledgeable?
 - (5) Is the candidate capable of making up his or her mind and rendering decisions?
 - (6) Is the candidate prompt in the performance of duties and obligations?
 - (7) Would the candidate be an impartial judge rather than an advocate?
 - (8) Could the candidate act without being duly affected by criticism, partisan demands, public clamor or considerations of personal popularity or notoriety?
 - (9) Does the candidate possess the qualities of honesty and integrity?
 - (10) Could the candidate, as a judge, be fair, impartial, and free from prejudice and bias?
 - (11) Is the candidate courteous and considerate?
 - (12) Is the candidate patient, attentive and temperate?
 - (13) Would the candidate respect the confidence inherent in the office of a judge?
 - (14) Is the candidate free of tendencies which would indicate the possibility of abuse of the power or prestige of office?
 - (15) Is the candidate free from activities or relationships which might tend to interfere with the candidate's performance as a judge?
 - (16) Would the candidate conscientiously perform the duties of a judge?
 - (17) Is the candidate industrious and well organized?
 - (18) Is the candidate courageous?
 - (19) Can the candidate live and carry out family obligations on the judicial salary? If not, what are or would be other sources of income?
 - (20) Given that the essential functions of being a judge are the ability to preside over a court, to analyze cases, and to render decisions based on the law and facts, can the candidate perform these essential functions with or without reasonable accommodation?
 - (21) Does the candidate have the ability to express himself or herself clearly and to write clear and concise opinions?
 - (22) Is the candidate's personal conduct compatible with judicial dignity?
 - (23) Could the candidate conduct judicial proceedings with appropriate dignity and decorum and within the canons of the Code of Judicial Conduct?
- (Effective December 22, 1994)

Sec. 51-44a-21. Criteria for incumbent judges who seek reappointment to the same court or elevation to a different court

(a) A judge seeking reappointment to the same court or to a different court shall possess, at a minimum, those qualities contained in sections 51-44a-19 and 51-44a-20 of these regulations required of candidates for judicial office.

(b) The past performance of a judge shall be considered in evaluating the judge for reappointment to the same court or appointment to a different court. In evaluating the past performance of the judge, the following criteria shall be considered:

- (1) Has the judge avoided impropriety and the appearance of impropriety?
- (2) Has the judge remained free from personal bias?
- (3) Does the judge have the ability to decide issues based on the law and the facts without regard for the identity of the parties or counsel, the popularity of the decision, and without concern for or fear of criticism?
- (4) Do the actions and decisions of the judge demonstrate his or her impartiality?
- (5) Does the judge exhibit appropriate "judicial temperament"?
- (6) Has the judge issued legally sound decisions?
- (7) Is the judge knowledgeable of the substantive, procedural, and evidentiary law of Connecticut?
- (8) Does the judge demonstrate an understanding and knowledge of the factual and legal issues before the court?
- (9) Does the judge properly apply judicial precedents and other appropriate sources of authority?
- (10) Are bench rulings and other oral communications by the judge reasonably clear and coherent?
- (11) Do the judge have the ability in written opinions to explain clearly and logically the facts and issues of a case and the relevant legal precedents?
- (12) Is the judge sensitive to the impact his or her demeanor and other nonverbal communications may have on all parties and participants, jurors, and the public?
- (13) Is the judge attentive to and prepared for proceedings before the court?
- (14) Does the judge exercise adequate control over proceedings before him or her?
- (15) Does the judge show courtesy to all parties and participants?
- (16) Does the judge show a willingness to permit every person legally interested in a proceeding to be heard, unless precluded by law or rules of court?
- (17) Does the judge devote appropriate time to all pending matters?
- (18) Does the judge discharge administrative responsibilities diligently?
- (19) Does the judge exercise appropriate responsibility for matters on calendars under his or her control?
- (20) Does the judge promptly handle pending matters?
- (21) Is the judge punctual in meeting time commitments?
- (22) Are time commitments met in accordance with the law and rules of court,
- (23) Does the judge attend and participate in judicial and continuing legal education programs?
- (24) Does the judge, consistent with the highest principles of the law, ensure that the court is serving the public to the best of its ability and in such a manner as to instill public confidence in the court system?
- (25) Is the judge effective and cooperative in working with other judges.
- (26) When part of a multi judge panel, is the judge effective in exchanging ideas and opinions with other judges during the decision making process?
- (27) Does the judge appropriately and with good authority critique the work of colleagues?

(28) Does the judge facilitate the performance of administrative responsibilities of other judges?

(29) Does the judge adhere to the canons of the Code of Judicial Conduct?

(30) Does the judge accept responsibility for a fair share of the judicial workload?

(31) Is the judge productive?

(Effective December 22, 1994)