

ARTICLE VII JUDICIAL SELECTION

7.1 Policy Concerning Judicial Selection, Retention and Evaluation.

The Association shall:

7.1.1 Recommend and actively support for judicial office individuals who, by virtue of their integrity, judicial temperament, professional competence and experience, and commitment to the community, have demonstrated their qualifications for judicial office;

7.1.2 Oppose the selection for or retention in judicial office of individuals who have not demonstrated such qualifications;

7.1.3 Recruit and encourage individuals most qualified for judicial office to accept appointment or stand for election to such office;

7.1.4 Exclude political considerations from the evaluation of individuals for retention and selection for judicial office;

7.1.5 Actively support constitutional reform for merit selection of judges; and

7.1.6 Conduct periodic interim evaluations with regard to the performance of members of the judiciary.

7.2 Courts Within Scope Of Association's Concern.

7.2.1 The Association shall be concerned with judges of, and judicial candidates for, the Court of Common Pleas of Philadelphia County and the Philadelphia Municipal Court.

7.2.2 The Association may be concerned with judges of, and judicial candidates for, the Supreme, Superior and Commonwealth Courts of Pennsylvania; the United States District Court for the Eastern District of Pennsylvania; the United States Court of Appeals for the Third Circuit, and any other court for which an individual is being considered, or for which the Board deems it appropriate.

7.3 Commission On Judicial Selection And Retention; Quorum; Chair; Vice Chair; Vacancies.

7.3.1 The Commission shall implement the policies of the Association set forth in Section 7.1. In addition to the criteria set forth in Section 7.1.1, the Commission may adopt such other criteria for selecting individuals to recommend and actively support for judicial office, so long as any additional criteria are consistent with Section 7.1.

7.3.2 The Commission shall consist of 35 persons, each of whom shall be entitled to vote, as follows:

7.3.2.1 The Chancellor, the Chancellor-Elect, and the Vice Chancellor.

7.3.2.2 The President Judge of the Court of Common Pleas of Philadelphia County and the President Judge of the Philadelphia Municipal Court.

7.3.2.3 The District Attorney of Philadelphia; the City Solicitor of the City of Philadelphia; and the Chief Defender of the Defender Association of Philadelphia. Every calendar year, each of the individuals listed in this Section 7.3.2.3 may appoint a designee to serve instead of that individual as a member of the Commission for that year; provided that the designee agrees to consistently attend meetings of the Commission throughout the year.

7.3.2.4 The Chair of the Young Lawyers Division; the Chair and one additional representative of the Criminal Justice Section; provided that one shall be employed by a prosecuting authority and the other shall be a criminal defense attorney; the Chair or Co-Chair of the Family Law Section; the Chair or Co-Chair of the Probate and Trust Section; the Chair or Co-Chair of the Public Interest Section; the Chair or Co-Chair of the State Civil Litigation Section; and a representative of the Business Law Section who shall be a business litigator appointed by the Executive Committee of the Section.

7.3.2.5 The Chair or a Co-Chair of the Appellate Courts Committee; the Chair or a Co-Chair of the LGBT Rights Committee; the Chair or a Co-Chair of the Municipal Court Committee; the Chair or a Co-Chair of the Women in the Profession Committee. If a committee listed in this Section 7.3.2.5 has one or more co-chairs, on or before January 15 of each year one of the co-chairs shall notify the Chancellor as to the identity of the co-chair who will serve as a member of the Commission for that year. If that notification is not given by January 15, the Chancellor shall designate one of the co-chairs to serve as a member of the Commission for that year.

7.3.2.6 Four Voting Members of recognized standing, judgment and independence, one of whom shall be appointed by the Chancellor each year, with the approval of the Board, to serve for a term of four years each, one term expiring on December 31 of each year, with a limitation of two consecutive four-year terms. Thereafter, the Voting Member shall be eligible for reappointment to the Commission after a lapse of 11 months from the expiration of the Voting Member's term. The Chancellor, on or before January 15 of each year, shall appoint with the approval of the Board, the successor to the lawyer member whose term expired on December 31 of the previous year.

7.3.2.7 Four non-lawyers, two of whom shall be appointed by the Chancellor each year, with the approval of the Board, to serve for terms of one year and two of whom shall serve for a term of two years each, one term expiring on December 31 each year, with no limitation on the number of terms. Such persons shall be selected from the public at large and be persons of recognized standing, judgment and independence, who have demonstrated their interest in the administration of justice in Philadelphia. The Chancellor, on or before January 15 of each year, shall appoint, with the approval of the Board, the successors of the members appointed pursuant to this Section 7.3.2.7 whose terms expired on December 31 of the previous year.

7.3.2.8 The Chair or the Executive Director of Community Legal Services as designated by its Board; the President or a representative of the Asian-Pacific American Bar Association of

Pennsylvania, as designated by its Board; the President or a representative of the Barristers' Association of Philadelphia, as designated by its Board; the President or a representative of the Hispanic Bar Association of Pennsylvania, as designated by its board; and the President or a representative of the South Asian Bar Association of Philadelphia, as designated by its board. Any individual designated pursuant to this Section 7.3.2.8 must be a Voting Member in order to serve on the Commission.

7.3.2.9 A member of the board of the Philadelphia Trial Lawyers Association, as designated by its board; and a member of the board of the Philadelphia Association of Defense Counsel, as designated by its board. Each individual appointed pursuant to this Section 7.3.2.9 shall serve for a term of two years, with a limitation of three consecutive two-year terms. Thereafter, the individual shall be eligible for reappointment to the Commission after a lapse of 11 months from the expiration of the member's term. Any individual designated pursuant to this Section 7.3.2.9 must be a Voting Member in order to serve on the Commission.

7.3.3 The following shall be the quorum requirements for meetings of the Commission:

7.3.3.1 Quorum: For the transaction of business other than that of determining whether a candidate is recommended for judicial office, a majority in number of the currently serving members of the Commission shall constitute a quorum. Notwithstanding the loss of a quorum, the members of the Commission present at a duly organized meeting can continue to do business until adjournment.

7.3.3.2 Super Quorum; Voting: For determining whether a candidate is recommended for judicial office, the quorum requirement shall be increased to that number set by the Commission. Unless a higher number is required by the Commission with the approval of the Board for a certain category of recommendation, the vote of a majority plus one of the currently serving members of the Commission present at a meeting at which a super quorum remains present and voting shall constitute the acts of the Commission.

7.3.4 The Chair of the Commission shall be a Voting Member and shall be named by the Chancellor on or before January 15 of each year to serve for a term coincident with the Chancellor's term, but no person shall serve as Chair for more than three years in succession. The Vice Chair of the Commission shall be a Voting Member and shall be named by the Chancellor-Elect on or before January 15 of each year to serve for a term coincident with the Chancellor-Elect's term, but no person shall serve as Vice Chair for more than three years in succession. No person shall be appointed as a Chair or Vice Chair without having first served during a judicial election year as either a commission member or as a trained reviewer in the Commission's Investigative Division.

7.3.5 Vacancies in the appointed members of the Commission shall be filled by appointment of the Chancellor, with the approval of the Board.

7.4 Duties Of The Commission.

The Commission will have the following responsibilities:

7.4.1 Judicial Appointment and Election.

7.4.1.1 Whenever an individual (other than an incumbent judge) is under consideration for appointment or election to a vacancy in judicial office in a court set forth in Section 7.2.1, the Commission shall investigate the qualifications of such person to hold such office and make such recommendations with regard thereto as may be appropriate, including recommendations to the public when an election is involved and to the legislature if confirmation of an appointment is required.

7.4.1.2 Whenever an incumbent judge is under consideration for appointment to a vacancy in judicial office in a court set forth in Section 7.2.1, the Commission shall investigate the qualifications of such judge, including the taking of a poll, if considered desirable by the Commission, and make recommendations with regard thereto as may be appropriate.

7.4.1.3 Whenever an individual is under consideration for a vacancy in judicial office in a court set forth in Section 7.2.2, the Commission may, but shall not be required to, investigate the qualifications of such person for such office and make such recommendations with regard thereto as may be appropriate, including recommendations to the public when an election is involved and to the legislature if confirmation of an appointment is required.

7.4.1.4 The Commission shall not make a favorable recommendation with respect to any candidate for judicial office, including a candidate seeking retention, who fails to waive generally all claims of confidentiality the candidate may have, or had, with regard to any documents, information or files concerning matters before the Disciplinary Board of the Supreme Court of Pennsylvania, the Judicial Inquiry and Review Board or any other similar body having jurisdiction over such candidate.

7.4.2 Incumbent Judges -- Retention or Election.

7.4.2.1 The Commission shall conduct an evaluation of the performance of any incumbent judge who seeks retention in or election to a court with which the Association is concerned and shall Publish its report as to whether such person is recommended for retention in or election to such judicial office. The Commission may conduct an evaluation of the performance of any incumbent judge who seeks retention in or election to a court with which the Association may be concerned and shall Publish its report as to whether such person is recommended for retention in or election to such judicial office. As part of its evaluation and prior to issuing its report, the Commission shall conduct a poll of licensed Pennsylvania attorneys, as provided by the Commission, concerning pertinent aspects of the performance of such incumbent judge, except in any case in which the judge has held office for an insufficient period of time, as determined by the Commission, for a meaningful poll to be conducted. The results of such poll, which shall be Published with the Commission's findings, shall be considered by the Commission along with all other information which shall come before the Commission in its investigation and consideration of the qualifications of the candidate.

7.4.2.2 In order for an incumbent judge to be found recommended by the

Commission for retention, such judge must commit to the Association in writing that, unless the Commission determines the judge faces active opposition, the judge will not, directly or indirectly, solicit contributions for his or her campaign from attorneys.

7.4.3 Interim Evaluation. The Commission may carry out interim evaluations of the judicial performance of judges of courts with which the Association is concerned and shall communicate and/or Publish the reports of such evaluations as the Commission in its discretion deems advisable. The manner and frequency of such interim evaluations shall be determined by the Commission.

7.4.4 Merit Selection. The Commission may coordinate the efforts of the Association to achieve merit selection of judges through amendment to the Constitution of Pennsylvania and other appropriate means.

7.4.5 Rules and Regulations. The Commission may adopt rules and regulations to govern its procedures, not inconsistent with these Bylaws.

7.5 Duty Of Fidelity; Breach; Removal; Disqualification.

7.5.1 No member of the Commission shall in any way make known the members' intention to vote for or against any person to be considered by the Commission prior to the time of the meeting at which the vote on that candidate shall be cast.

7.5.2 Except as provided in this Article, any action taken by the Commission and any discussions or statements made at a Commission meeting pertaining to the qualifications of any person whose name has been submitted to or has been considered by the Commission shall be confidential and shall not be disclosed.

7.5.3 Any member making any commitment or disclosure in violation of this Section 7.5 may be removed by the other members of the Commission. Any member so removed shall have a right of appeal to the Board by filing an appeal with the Secretary within 30 days following such removal, but the appeal shall be restricted to the factual question whether the member made the commitment or disclosure. If the Board finds that the member did make the commitment or disclosure, the Board shall not reverse the action of the Commission. The action of the Commission in making such removal shall not be stayed by reason of the pendency of an appeal. The decision of the Commission shall be final unless appealed to the Board, and the decision of the Board shall be final and binding on all parties, with no further right of appeal.

7.5.4 No person who is seeking or being considered for appointment, retention in or election to any judicial or any other public office shall be eligible for appointment as a member of the Commission. With the exception of the President Judge of the Court of Common Pleas of Philadelphia County and the President Judge of the Philadelphia Municipal Court (each hereinafter called "a judiciary member of the Commission"), any member of the Commission who is seeking or being considered for appointment, retention in or election to any judicial office, or who authorizes the Commission to consider the member's qualifications for judicial office, shall forthwith cease to be a member of the Commission and shall be ineligible for membership on the Commission for a period of two years thereafter. Any member of the

Commission who becomes a candidate for any elective public office other than a judicial office shall forthwith cease to be a member of the Commission and shall be ineligible for membership on the Commission until the conclusion of the member's candidacy for public office. A judiciary member of the Commission shall remain a member of the Commission even though seeking or being considered for appointment or election to, or retention in, a judicial office, but in such event such judiciary member of the Commission shall be disqualified from voting or participating in Commission deliberations respecting such judicial office. An alternate member of the Commission appointed by an organization or agency pursuant to Section 7.3.2.1 shall be disqualified from voting or participating in Commission deliberations respecting a judicial office being sought by the ex officio member such person has replaced.

7.6 Cooperation With Pennsylvania And American Bar Associations.

In the case of any vacancy in a federal court or in the Supreme, Superior or Commonwealth Courts of Pennsylvania, the Commission shall, insofar as possible, cooperate with the Standing Committee on the Federal Judiciary of the American Bar Association and the Judiciary Committee of the Pennsylvania Bar Association, respectively, and may report to one or both committees any action taken or matters discussed by the Commission.

7.7 Vacancies.

7.7.1 General provision. If a vacancy occurs on the Commission with respect to an individual appointed pursuant to the terms of Sections 7.3.2.3, 7.3.2.4, 7.3.2.5, 7.3.2.6, 7.3.2.7, 7.3.2.8 or 7.3.2.9, other than through the operation of Section 7.5.4, a replacement shall be appointed for the remainder the year or that individual's term, whichever is longer, by the individual or entity authorized to make the original appointment.

7.7.2 Vacancies created by operation of Section 7.5.4.

7.7.2.1 If the District Attorney of Philadelphia, the City Solicitor of the City of Philadelphia; the Chief Defender of the Defender Association of Philadelphia or the Pennsylvania Attorney General personally is serving on the Commission and ceases to be a member of the Commission by reason of the application of Section 7.5.4, then the applicable entity or organization shall designate an alternate representative of appropriate rank and seniority by whatever means the entity or organization deems appropriate. If a designee of one of these individuals who has been designated to serve on the Commission pursuant to the terms of Section 7.3.2.3 ceases to be a member of the Commission by reason of the application of Section 7.5.4, then another individual may be designated to serve instead of that designee as a member of the Commission for the remainder of that year.

7.7.2.2 If the Chair of the Appellate Courts Committee, the LGBT Rights Committee; the Municipal Court Committee or the Women in the Profession Committee ceases to be a member of the Commission by reason of the application of Section 7.5.4, the vacancy shall be filled by appointment of the Chancellor, unless that Committee has one or more co-chairs, in which event another Co-Chair shall serve on the Commission as provided in Section 7.3.2.5.

7.7.2.3 If a Voting Member appointed pursuant to Section 7.3.2.6 ceases

to be a member of the Commission by reason of the application of Section 7.5.4, then the Chancellor, with the approval of the Board, shall appoint a replacement to serve out the term of that member of the Commission.

7.7.2.4 If the Commission member serving as the member designated by the board of Philadelphia Trial Lawyers Association or the Philadelphia Association of Defense Counsel ceases to be a member of the Commission by reason of the application of Section 7.5.4, then the board of the applicable organization shall designate an alternative representative of that organization.