

UNIFORM RULES OF PROCEDURE

FOR

CIRCUIT JUDICIAL NOMINATING

COMMISSIONS

AS AMENDED JUNE 25, 2003

1 **UNIFORM RULES OF PROCEDURE FOR CIRCUIT**
2 **JUDICIAL NOMINATING COMMISSIONS**

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5 **Section I. Initial Procedure; Investigative Sources; Notice**

6 Whenever a vacancy occurs in a judicial office within the jurisdiction of a
7 judicial nominating commission, the appropriate commission shall actively seek,
8 receive and review the approved background statements submitted by those who
9 voluntarily request consideration, and by those who otherwise consent in writing to
10 such consideration by the commission. The commission shall require completion of
11 the application form attached hereto and incorporated herein, which shall include a
12 waiver of confidentiality of all material necessary to adequately investigate each
13 applicant, including but not limited to, disciplinary records of The Florida Bar, records
14 of the Florida Board of Bar Examiners, credit records, records maintained by any law
15 enforcement agency, and records of the Florida Judicial Qualifications Commission.

16 The commission shall notify The Florida Bar, representative bar associations
17 (including minority and women's bar associations) within the jurisdiction where the
18 vacancy occurs and electronic media; and shall seek applications for nominations
19 from all persons who meet the eligibility requirements in the Florida Constitution.

20 The commissions may seek and shall receive information from interested persons
21 and groups.

22
23 **Section II. Screening Procedures**

24 Within a reasonable time after notice is given of the existence of the vacancy,
25 the commission shall meet to consider applicants. At this meeting the procedures

26 for screening and voting upon applicant for said vacancy shall be determined.

27

28 **Section III. Electronic Media and Still Photography Coverage**

29 **of Judicial Nominating Commission Proceedings**

30 Subject at all times to the authority of the chairperson of the commission to:

31 (i) control the conduct of proceedings before the commission; (ii) ensure decorum

32 and prevent distractions; and (iii) ensure the fair administration of justice in the

33 pending cause, electronic media and still photography coverage of the open

34 commission proceedings shall be allowed in accordance with Judicial Administrative

35 Rule 2.170.

36

37 **Section IV. Further Investigation; Interviews**

38 The commission shall investigate the fitness and qualifications of each

39 applicant, utilizing all sources reasonably available within the time permitted by the

40 Florida Constitution. In addition, the commission may invite any applicant to appear

41 before a quorum of the commission sitting as a whole to respond to questions

42 deemed pertinent to each applicant's fitness and qualifications to hold the judicial

43 office. All applications, and other information received from or concerning

44 applicants, and all interviews and proceedings of the commission, except for

45 deliberations by the commission, shall be open to the public to the extent required by

46 the Florida Constitution or Florida Statutes.

47 The application shall include a separate page asking applicants to identify

48 their race, ethnicity and gender. Completion of this page shall be optional, and the

49 page shall include an explanation that the information is requested for data collection
50 purposes in order to assess and promote diversity in the judiciary. The chair of the
51 Commission shall forward all such completed pages, along with the names of the
52 nominees, to the JNC Coordinator in the Governor's Office.

53 At a point in the investigative and interview process deemed appropriate by
54 the commission, the commission shall require financial disclosure from the applicant.

55

56 **Section V. Standards and Qualifications; Criteria**

57 No nominee shall be recommended to the governor for appointment unless
58 the commission finds that the nominee meets all constitutional and statutory
59 requirements and is fit for appointment to the particular judicial office after full and
60 careful consideration which consideration shall include but not necessarily limited to
61 the following criteria:

62 (a) Personal attributes

63 (1) Personal integrity

64 (2) Standing in community

65 (3) Sobriety

66 (4) Moral conduct

67 (5) Ethics

68 (6) Commitment to equal justice under law

69 (b) Competency and experience

70 (1) General health, mental and physical

71 (2) Intelligence

- 72 (3) Knowledge of the law
- 73 (4) Professional Reputation
- 74 (5) Knowledge of and experience in the court involved
- 75 (c) Judicial capabilities
 - 76 (1) Patience
 - 77 (2) Decisiveness
 - 78 (3) Impartiality
 - 79 (4) Courtesy
 - 80 (5) Civility
 - 81 (6) Industry and promptness
 - 82 (7) Administrative ability
 - 83 (8) Possible reaction to judicial power
 - 84 (9) Temperament
 - 85 (10) Independence

86

87 **Section VI. Final Selection of Nominees**

88 By majority vote, the commission shall select no fewer than three and no
89 more than six nominees from the list of applicants who meet the requirements of the
90 Florida Constitution and all other legal requirements for the judicial office.

91 The names of such nominees selected by the commission shall be certified to
92 the governor in alphabetical order, and a copy of all investigative information and
93 documents relating to each such nominee shall be forwarded to the governor.

94

95 **Section VII. Publication of Names of Nominees**

96 The chairperson of the commission shall make public the names of all
97 persons recommended for gubernatorial appointment, without indicating any
98 preference of the commission.

99

100 **Section VIII. Ethical Responsibilities**

101 Judicial nominating commissioners hold positions of public trust. A
102 commissioner's conduct should not reflect discredit upon the judicial selection
103 process or disclose partisanship or partiality in the consideration of applicants.
104 Consideration of applicants shall be made impartially and objectively.

105 A commissioner shall disclose to all other commissioners present all personal
106 and business relationships with an applicant. If a substantial conflict of interest is
107 apparent, that commissioner shall not vote on further consideration of any affected
108 applicants. A Commissioner shall declare any conflict of interest that he/she has.
109 Alternatively, upon motion by any Commissioner, a majority of all of the
110 Commissioners may declare that a commissioner has a conflict of interest. The
111 affected Commissioner may vote on the motion. All balloting by the commission
112 shall be by secret ballot and the chair shall be entitled to vote in all instances. Upon
113 certification of a list of nominees to the governor, no commissioner shall contact the
114 governor or any member of his office or staff, for the purpose of further influencing
115 the governor's ultimate decision. However, if contacted by the governor, or his office
116 or staff, a commissioner shall be entitled to answer questions about each nominee.
117 No attempt should be made to rank such nominees or to otherwise disclose a
118 preference of the commission.

119 **Section IX. Misconduct**

120 Each commissioner shall be accountable to the Governor and the chair of
121 their commission for compliance with these rules and the proper performance of
122 their duties as a member of a judicial nominating commission. Each commissioner
123 affirms that under these rules the Governor and/or the chair of their commission may
124 dispose of any legally sufficient written complaint alleging the misconduct of one or
125 more commissioners or commissions, limited only by Article IV, Section 7 of the
126 Constitution of the State of Florida. Each commissioner further acknowledges that
127 pursuant to Article IV, Section 7 the Governor may suspend from office any
128 commission member for malfeasance, misfeasance, neglect of duty, drunkenness,
129 incompetence, permanent inability to perform their official duties, or commission of a
130 felony.

131 A complaint alleging the misconduct of one or more commissioners (other
132 than the chair) within a single judicial nominating commission shall be reported in
133 writing to the chair of the affected commission for action. Upon the chair's receipt of
134 any such charges, the subject commissioner(s) and the Governor shall be
135 immediately notified thereof and thereafter kept continuously apprised of their status
136 through final disposition. The chair shall investigate any complaint if the allegations
137 are in writing, signed by the complainant, and legally sufficient. A complaint is
138 legally sufficient if the chair determines that it contains ultimate facts which show a
139 violation of these rules or reflects discredit on the judicial selection process. Prior to
140 determining legal sufficiency the chair may require supporting information or
141 documentation as necessary for that determination. Upon determination of legal
142 sufficiency each charge may be disposed of by the chair solely, or may be referred
143 by the chair for disposition by the Governor , exclusively or with the concurrence of

144 the chair, but in consultation with all other members of the affected JNC who are not
145 otherwise involved in the disposition. Disposition of a complaint shall include a
146 hearing which affords the opportunity for the presentation of evidence to be
147 evaluated by a clear and convincing standard of proof. Action shall be taken within
148 60 days of receipt of any written complaint and its final disposition shall be
149 immediately reported.

150 A complaint alleging the sole misconduct of a judicial nominating commission
151 chair shall be reported in writing to the Governor for action. Upon the Governor's
152 receipt of any such charges, the subject chair shall be immediately notified thereof
153 and thereafter kept continuously apprised of their status through final disposition.
154 The Governor shall investigate any complaint if the allegations are in writing, signed
155 by the complainant, and legally sufficient. A complaint is legally sufficient if the
156 Governor determines that it contains ultimate facts which show a violation of these
157 rules or reflects discredit upon the judicial selection process. Prior to determining
158 legal sufficiency the Governor may require supporting information or documentation
159 as necessary for that determination. Upon determination of legal sufficiency, each
160 charge shall be disposed of by the Governor in consultation with all other members
161 of the affected JNC who are not otherwise involved in the disposition. Disposition of
162 a complaint shall include a hearing which affords the opportunity for the presentation
163 of evidence to be evaluated by a clear and convincing standard of proof. Action
164 shall be taken within 60 days of receipt of any written complaint and its final
165 disposition shall be immediately reported.

166 A complaint alleging the misconduct of a judicial nominating commission chair
167 and one or more commissioners of a judicial nominating commission shall be

168 reported in writing to the Governor for action. Upon the Governor's receipt of any
169 such charges, the subject chair and commissioner(s) shall be immediately notified
170 thereof and thereafter kept continuously apprised of their status through final
171 disposition. The Governor shall investigate any complaint if the allegations are in
172 writing, signed by the complainant, and legally sufficient. A complaint is legally
173 sufficient if the Governor determines that it contains ultimate facts which show a
174 violation of these rules or reflects discredit on the judicial selection process. Prior to
175 determining legal sufficiency the Governor may require supporting information or
176 documentation as necessary for that determination. Upon determination of legal
177 sufficiency each charge may be disposed of by the Governor solely, or in
178 consultation with all other members of the affected JNC who are not otherwise
179 involved in the disposition or the subjects of the alleged misconduct. Disposition of a
180 complaint shall include a hearing which affords the opportunity for the presentation
181 of evidence to be evaluated by a clear and convincing standard of proof. Action
182 shall be taken within 60 days of receipt of any written complaint and its final
183 disposition shall be immediately reported.

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185 **Section X. Annual Meeting; Selection of Chairperson; Local Rules**

186 On July 2 of each year or as soon thereafter as practicable, each commission
187 shall designate a chairperson by majority vote to serve for one year and shall certify
188 his or her name to the Governor. The chairperson shall be entitled to vote in all
189 matters. His or her term shall end on July 1 of the next succeeding year. After July
190 1st and the appointment of all commission vacancies by the Governor, the new
191 commission shall meet to elect by majority vote a vice chairperson who shall have at

192 least two years remaining in his or her term. The vice chairperson shall
193 automatically be nominated for chairperson at the next annual election held.
194 Additional nominations of qualified persons for chairperson are allowed.

195 The chairperson shall keep a permanent written record of the minutes of all
196 meetings of the commission, and all policies and procedures adopted by the
197 commission, and all policies and procedures adopted by the commission during his
198 or her term. At the conclusion of his or her term the outgoing chairperson shall turn
199 over to the newly elected chairperson all minutes of meetings and written records of
200 adopted policies and procedures. Each commission may adopt such additional
201 operating rules, forms and notices as it may from time to time deem necessary, so
202 long as they are not inconsistent with these rules.

203 Within the first twelve months of appointment, each JNC appointee must
204 complete an educational course designed to familiarize members with JNC rules and
205 procedures. Training shall include segments regarding interviewing techniques and
206 diversity sensitivity.

207

208 **Section XI. Amendments**

209 These rules may be amended by majority vote of the circuit judicial
210 nominating commissions, voting by an authorized representative.

211 Upon written request of 25% of all circuit judicial nominating commissions, a
212 meeting shall be convened within 90 days for the purpose of considering
213 amendments to these rules.

214 These rules became effective January 8, 1985. Amendments were made
215 effective January 31, 1989 and February 22, 1991.

216

217 Note: These rules were promulgated by a majority of the circuit judicial nominating
218 commissions, meeting in open session on January 24, 1985 in Miami. The rules
219 were amended in open session on January 11, 1989 in Orlando; February 22, 1991
220 in Tampa; April 3, 1992 in Tampa; January 29, 1993 in Tampa; December 7, 1994 in
221 Tampa; September 6, 1995 in Tampa; January 22, 1997 in Miami; and March 30,
222 2000 in Tampa; and June 25, 2003 in Orlando.

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