

UNIFORM RULES OF PROCEDURE

FOR

DCA JUDICIAL NOMINATING

COMMISSIONS

AS AMENDED JUNE 25, 2003

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2 **UNIFORM RULES OF PROCEDURE FOR DCA**
3 **JUDICIAL NOMINATING COMMISSIONS**
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6 **Section I. Initial Procedure; Investigative Sources; Notice**

7 Whenever a vacancy occurs in a judicial office within the jurisdiction of a judicial
8 nominating commission, the appropriate commission shall actively seek, receive, and
9 review the approved background statements submitted by those who voluntarily request
10 consideration, and by those who otherwise consent in writing to such consideration by
11 the commission. Each such background statement shall be in substantial compliance
12 with the form provided for this purpose, and shall include a waiver of confidentiality of all
13 material necessary to adequately investigate each applicant, including but not limited to,
14 disciplinary records of The Florida Bar, records of the Florida Board of Bar Examiners,
15 credit records, records maintained by any law enforcement agency, and records of the
16 Florida Judicial Qualifications Commission. The commission shall notify The Florida
17 Bar, the county or local bar associations (including minority and women's bar
18 associations) within the jurisdiction where the vacancy exists, newspapers of general
19 circulation in such area, and the electronic media, to the extent reasonably possible, of
20 the existence of the vacancy and the deadline for applications. The commissions may
21 seek and shall receive information from interested persons and groups.

22
23 **Section II. Initial Screening**

24 The commission shall require completion of the application for judicial nomination
25 prescribed by the commission. The commission shall meet within a reasonable time
26 after the deadline for applications to evaluate, classify, and list applicants as "most

27 qualified" for further investigation and consideration. The list may be limited in number
28 if agreed upon by 2/3 of the commissioner's voting. No person shall be classified as
29 "most qualified" until the commission affirmatively determines that the applicant meets
30 all legal requirements for that judicial office and that the applicant appears from the
31 materials then available to the commission to possess the personal qualities and
32 attributes of character, experience, judicial temperament, and professional competence
33 essential to that judicial office.

34

35 **Section III. Electronic Media and Still Photography Coverage**
36 **of Judicial Nominating Commission Proceedings**

37 (a) Subject at all times to the authority of the chairperson of the commission
38 to: (i) control the conduct of proceedings before the commission; (ii) ensure decorum
39 and prevent distractions; and (iii) ensure the fair administration of justice in the pending
40 cause, electronic media and still photography coverage of the open commission
41 proceedings shall be allowed in accordance with Judicial Administration Rule 2.170.

42

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

44 After selection of the "most qualified" list of applicants, the commission shall
45 further investigate the fitness and qualifications of each applicant, utilizing all sources
46 reasonably available within the time permitted by the Florida Constitution. In addition,
47 the commission may invite each "most qualified" applicant to appear before a quorum of
48 the commission sitting as a whole to respond to questions deemed pertinent to each
49 applicant's fitness and qualifications to hold the judicial office. All applications, and

50 other information received from or concerning applicants, and all interviews and
51 proceedings of the commission, except for deliberations by the commission, shall be
52 open to the public to the extent required by the Florida Constitution.

53 The application shall include a separate page asking applicants to identify their
54 race, ethnicity and gender. Completion of this page shall be optional, and the page
55 shall include an explanation that the information is requested for data collection
56 purposes in order to assess and promote diversity in the judiciary. The chair of the
57 Commission shall forward all such completed pages, along with the names of the
58 nominees, to the JNC Coordinator at the Governor's Office.

59 At a point in the investigative and interview process deemed appropriate by the
60 commission, the commission shall:

61 (a) Inquire as to an applicant's past and present affiliation with or
62 membership in legal and nonlegal organizations and clubs that practice or have policy
63 that restricts or has restricted during the time of the applicant's affiliation or membership
64 on the basis of race, religion, national origin, or sex. If affiliation with or membership in
65 a restrictive or discriminatory club or organization is disclosed, inquiry shall be made as
66 to whether the applicant intends to continue such affiliation or membership if selected to
67 serve on the bench.

68 (b) Inquire as to an applicant's medical status to determine whether he or she
69 is physically capable of performing judicial duties. Such inquiry shall include questions
70 regarding past and present history of drug or alcohol dependency and, if relevant,
71 participation in treatment and rehabilitative programs.

72 (c) Require complete financial disclosure from the

73 applicant.

74

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

76 No nominee shall be recommended to the governor for appointment unless the
77 commission finds that the nominee meets all constitutional and statutory requirements
78 and is fit for appointment to the particular judicial office after full and careful
79 consideration which consideration shall include but not necessarily limited to the
80 following criteria:

81 (a) Personal attributes

82 (1) Personal integrity

83 (2) Standing in community

84 (3) Sobriety

85 (4) Moral conduct

86 (5) Ethics

87 (6) Commitment to equal justice under law

88 (b) Competency and experience

89 (1) General health, mental and physical

90 (2) Intelligence

91 (3) Knowledge of the law

92 (4) Professional reputation

93 (5) Knowledge of and experience in the court involved

94 (c) Judicial capabilities

95 (1) Patience

- 96 (2) Decisiveness
- 97 (3) Impartiality
- 98 (4) Courtesy
- 99 (5) Civility
- 100 (6) Industry and promptness
- 101 (7) Administrative ability
- 102 (8) Possible reaction to judicial power
- 103 (9) Temperament
- 104 (10) Independence

105

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

107 Upon conclusion of all investigation obtained by the commission, and after the
108 "most qualified" applicants have been afforded the opportunity of a personal interview
109 by the commission, the commission shall meet to evaluate the "most qualified"
110 applicants. By majority vote, the commission shall select from the list of "most qualified"
111 applicants who meet all legal requirements for the judicial office (no fewer than three
112 and no more than six nominees for each vacancy in the judicial office). The names of
113 such nominees selected by the commission shall be certified to the governor in
114 alphabetical order, and a copy of all investigative information and documents relating to
115 each such nominee shall be forwarded to the governor in a sealed container so that it is
116 received no later than thirty days from the occurrence of a vacancy, unless the period is
117 extended by the governor.

118

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

120 The chair of the commission shall make public the names of all persons
121 recommended for gubernatorial appointment, without indicating any preference of the
122 commission.

123

124 **Section VIII. Ethical Responsibilities**

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

129 A commissioner shall disclose to all other commissioners present all personal
130 and business relationships with an applicant. If a substantial conflict of interest is
131 apparent, that commissioner shall not vote on further consideration of any affected
132 applicants. All balloting by the commission shall be by secret ballot and the chair shall
133 be entitled to vote in all instances. Upon certification of a list of nominees to the
134 governor, no commissioner shall contact the governor or any member of his office or
135 staff, for the purpose of further influencing the governor's ultimate decision. However, if
136 contacted by the governor, or his office or staff, a commissioner shall be entitled to
137 answer questions about each nominee. No attempt should be made to rank such
138 nominees or to otherwise disclose a preference of the commission.

139

140 **Section IX. Misconduct**

141 Each commissioner shall be accountable to the Governor, and the chair of their
142 commission for compliance with these rules and the proper performance of their duties
143 as a member of a judicial nominating commission. Each commissioner affirms that
144 under these rules the Governor, and/or the chair of their commission may dispose of
145 any written complaint alleging the misconduct of one or more commissioners or
146 commissions, limited only by Article IV, Section 7 of the Constitution of the State of
147 Florida. Each commissioner further acknowledges that pursuant to Article IV, Section 7
148 the Governor may suspend from office any commission member for malfeasance,
149 misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to
150 perform their official duties, or commission of a felony.

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

169 A complaint alleging the sole misconduct of a judicial nominating commission
170 chair shall be reported in writing to the Governor for action. Upon the Governor's
171 receipt of any such charges, the subject chair shall be immediately notified thereof and
172 thereafter kept continuously apprised of their status through final disposition. The
173 Governor shall investigate any complaint if the allegations are in writing, signed by the

174 complainant, and deemed sufficient. A complaint is sufficient if the Governor
175 determines that it contains allegations which if proven would be a violation of these
176 rules or reflects discredit upon the judicial selection process. Prior to determining
177 sufficiency the Governor may require supporting information or documentation as
178 necessary for that determination. Upon determination of sufficiency, each charge shall
179 be disposed of by the Governor in consultation with all other members of the affected
180 JNC who are not otherwise involved in the disposition. Disposition of a complaint shall
181 include a hearing which affords the opportunity for the presentation of evidence to be
182 evaluated by a clear and convincing standard of proof. Action shall be taken within 60
183 days of receipt of any written complaint and its final disposition shall be immediately
184 reported.

185 A complaint alleging the misconduct of a judicial nominating commission chair
186 and one or more commissioners of a judicial nominating commission shall be reported
187 in writing to the Governor for action. Upon the Governor's receipt of any such charges,
188 the subject chair and commissioner(s) shall be immediately notified thereof and
189 thereafter kept continuously apprised of their status through final disposition. The
190 Governor shall investigate any complaint if the allegations are in writing, signed by the
191 complainant, and deemed sufficient. A complaint is sufficient if the Governor
192 determines that it contains allegations which if proven would be a violation of these
193 rules or reflects discredit on the judicial selection process. Prior to determining
194 sufficiency the Governor may require supporting information or documentation as
195 necessary for that determination. Upon determination of sufficiency each charge may
196 be disposed of by the Governor solely, but in consultation with all other members of the

197 affected JNC who are not otherwise involved in the disposition or the subjects of the
198 alleged misconduct. Disposition of a complaint shall include a hearing which affords the
199 opportunity for the presentation of evidence to be evaluated by a clear and convincing
200 standard of proof. Action shall be taken within 60 days of receipt of any written
201 complaint and its final disposition shall be immediately reported.

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203 **Section X. Annual Meeting; Selection of Chair; Local Rules;**

204 **Safeguarding of Records**

205 Annually, after July 1st, the commission shall meet to elect by a majority vote a
206 chair. His or her term shall end on July 1 of the next succeeding year. The chair's term
207 shall not exceed one year. After July 1st and the appointment of all commission
208 vacancies by the Governor, the new commission shall meet to elect by majority vote a
209 vice chair who shall have at least two years remaining in his or her term. Each
210 commission shall certify the chair's name to the Governor. The vice chair shall
211 automatically be nominated for chair at the next annual election held. Additional
212 nominations of qualified persons for chair are allowed.

213 The chair shall keep a permanent written record of all policies and procedures
214 adopted by the commission during his or her term.

215 Each commission may adopt such additional operating rules, forms and notices
216 as it may from time to time deem necessary, so long as they are not inconsistent with
217 these rules. Each commission shall maintain continuous records of its proceedings. In
218 order that such records may be safeguarded, the commission after completing its
219 deliberations and submitting its recommendations to the Governor, shall place all

220 remaining applications, questionnaires and other investigative data in a file. The files
221 will be available on a continuous basis to the commission upon request, but the files
222 may be destroyed on a yearly basis.

223 At the conclusion of his or her term, the outgoing chair shall turn over to the
224 newly elected chair all written records of adopted policies and procedures.

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

229

230 **Section XI. Amendments**

231 These rules may be amended by majority vote of the DCA Judicial Nominating
232 Commissions voting by an authorized representative.

233 Upon written request of 25% of all DCA judicial nominating commissions, a
234 meeting shall be convened within 90 days for the purpose of considering amendments
235 to these rules.

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237 Note: These rules were promulgated by representatives from each of the District Courts
238 of Appeal Judicial Nominating Commissions, meeting in open session on January 24,
239 1985 in Miami. The rules were amended in open session on January 11, 1989 in
240 Orlando; April 3, 1992 in Tampa; January 29, 1993 in Tampa; December 7, 1994 in
241 Tampa; January 22, 1997 in Miami; and March 30, 2000 in Tampa; and June 25, 2003
242 in Orlando.

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