

**SUPREME COURT
JUDICIAL NOMINATING
COMMISSION
RULES OF PROCEDURE**

AS AMENDED NOVEMBER 7, 2002

1 **SUPREME COURT JUDICIAL NOMINATING COMMISSION**
2 **RULES OF PROCEDURE**

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

5 Whenever a vacancy occurs on the Supreme Court, or in the office of Statewide
6 Prosecutor, or in the office of Capital Collateral Regional Counsel the Supreme Court
7 Judicial Nominating Commission (hereinafter referred to as the "Commission") shall
8 receive and review applications submitted by those applicants who timely request
9 consideration. Each such application shall be in substantial compliance with the
10 approved form of the Commission and shall include a waiver of confidentiality of all
11 materials deemed necessary by the Commission to adequately investigate each
12 applicant including, but not limited to, disciplinary records of The Florida Bar, records of
13 the Florida Board of Bar Examiners, credit records, records of any law enforcement
14 agency and (where applicable) records of the Florida Judicial Qualifications
15 Commission.

16 The Commission shall notify The Florida Bar, the county and the local bar
17 associations (including minority and women's bar associations) within the jurisdiction
18 where the vacancy exists and at least one newspaper of general circulation in such area
19 of the existence of the vacancy and the deadline for applications.

20 The Commission may seek and shall receive information from interested persons
21 and groups. All applications, and other written information received from or concerning
22 applicants, and all interviews and proceedings of the Commission, except for
23 deliberations by the Commission, shall be open to the public to the extent required by
24 law.

 Eleven copies of the application and all attachments shall be filed with the chair

(or designee) by each applicant prior to the deadline for filing applications. One copy of each application with attachments shall be forwarded by the chair to the Judicial Nominating Commission Coordinator, The Florida Bar, Tallahassee, Florida and one to the Judicial Nominating Commission Coordinator, General Counsel, Office of the Governor. The Commission shall require appropriate financial disclosure information as part of the application. The Commission may require such additional information as it deems appropriate.

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

Section II. Initial Screening

Within a reasonable time after notice is given of the existence of a vacancy, the Commission shall meet to consider applicants and to select those applicants to be interviewed.

All applications, and other written information received from or concerning applicants, and all interviews and proceedings of the Commission, except for deliberations by the Commission, shall be open to the public to the extent required by law.

Section III. Electronic Media and Still Photography Coverage

of Judicial Nominating Commission Proceedings

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

(b) Equipment and Personnel.

(1) Not more than 1 portable television camera (film camera -- 16mm sound on film (self blimped) or videotape electronic camera), operated by not more than 1 camera person, shall be permitted in any open commission proceeding.

(2) Not more than 1 still photographer, using not more than 2 still cameras with not more than 2 lenses for each camera and related equipment for print purposes, shall be permitted in any open commission proceeding.

(3) Not more than 1 audio system for radio broadcast purposes shall be permitted in any open commission proceeding. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the commission meeting place. If no technically suitable audio system exists in the commission meeting place, microphones and related wiring essential for media purposes shall be unobtrusive and shall be located in places designated in advance of any proceeding by the chairperson in which the commission proceeding is located.

(4) Any "pooling" arrangements among the media required by these limitations on equipment and personnel shall be the sole responsibility of the media without calling upon the chairperson of the commission to mediate any dispute as to the appropriate media representative or equipment authorized to cover a particular

proceeding. In the absence of advance media agreement on disputed equipment or personnel issues, the chairperson of the commission shall exclude all contesting media personnel from a proceeding.

(c) Sound and Light Criteria.

(1) Only television photographic and audio equipment that does not produce distracting sound or light shall be used to cover open commission proceedings. Specifically, such photographic and audio equipment shall produce no greater sound or light than the equipment designated in the Appendix to this rule, when such designated equipment is in good working order. No artificial lighting device of any kind shall be used in connection with the television camera.

(2) Only still camera equipment that does not produce distracting sound or light shall be used to cover open commission proceedings. Specifically, such still camera equipment shall produce no greater sound or light than a 35mm Leica "M" Series Rangefinder camera, and no artificial lighting device of any kind shall be used in connection with a still camera.

(3) It shall be the affirmative duty of media personnel to demonstrate to the chairperson of the commission adequately in advance of any proceeding that the equipment sought to be used meets the sound and light criteria enunciated in this rule. A failure to obtain advance approval for equipment shall preclude its use in the proceeding.

(d) Location of Equipment Personnel.

(1) Television camera equipment shall be positioned in such location in the meeting place of the commission as shall be designated by the chairperson. The area designated shall provide reasonable access to coverage. If and when areas remote

from the commission proceedings permit reasonable access to coverage are provided, all television camera and audio equipment shall be positioned only in such area. Videotape recording equipment that is not a component part of a television camera shall be located in an area remote from the commission proceedings.

(2) A still camera photographer shall position himself or herself in such location in the meeting place of the commission as shall be designated by the chairperson. The area designated shall provide reasonable access to coverage. Still camera photographers shall assume a fixed position within the designated area and, once established in a shooting position, shall act so as not to call attention to themselves through further movement. Still camera photographers shall not be permitted to move about in order to obtain photographs of the commission proceedings.

(3) Broadcast media representatives shall not move about the meeting place of the commission while proceedings are in session, and microphones or taping equipment once positioned as required by subdivision (a)(3) shall not be moved during the pendency of the proceeding.

(e) Movement During Proceedings. News media photographic or audio equipment shall not be placed in or removed from the meeting place of the commission except before commencement or after adjournment of proceedings each day, or during a recess. Neither television film magazines nor still camera film or lenses shall be changed within the meeting place of the commission except during a recess in the proceeding.

(f) Commission Meeting Place Light Sources. With the concurrence of the chairperson of the commission in which the meeting is situated, modifications and additions may be made in light sources existing in the commission meeting place,

provided such modifications or additions are installed and maintained without public expense and removed immediately, following the commission proceeding, all light sources returned to their original condition.

APPENDIX

FILM CAMERAS.....			16mm Sound of Film (self blimped)
1.	Cinema Products	CP-16A-R	Sound Camera
2.	Arriflex	16mm-16BL Model	Sound Camera
3.	Frezzolini	16mm (LW16)	Sound on Film Camera
4.	Auricon	"Cini-Voice"	Sound Camera
5.	Auricon	"Pro-600"	Sound Camera
6.	General Camera	SS III	Sound Camera
7.	Eclair	Model ACL	Sound Camera
8.	General Camera	DGX	Sound Camera
9.	Wilcam Reflex	16mm	Sound Camera

VIDEOTAPE ELECTRONIC CAMERAS

1.	Ikegami	HL-77 HL-33 HL-35 HL-34 HL-51
2.	RCA	TK 76
3.	Sony	DXC-1600 Trinicon
4.	ASACA	ACC-2006
5.	Hitachi	SK 80 SK 90
6.	Hitachi	FP-3030
7.	Philips	LDK-25

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|-----|--------------|-----------------|
| 8. | Sony BVP-200 | ENG Camera |
| 9. | Fernseh | Video Camera |
| 10. | JVC-8800u | ENG Camera |
| 11. | AKAI | CVC-150 VTS-150 |
| 12. | Panasonic | WV-308 NV-3085 |
| 13. | JVC | GC-4800u |

VIDEOTAPE RECORDERS/used with video cameras

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| 1. | Ikegami | 3800 |
| 2. | Sony | 3800 |
| 3. | Sony | BVU-100 |
| 4. | Ampex | Video Recorder |
| 5. | Panasonic | 1 inch Video Recorder |
| 6. | JVC | 4400 |
| 7. | Sony | 3800H |

Section IV. Further Investigation; Interviews

Upon selection by the Commission of the applicants to be interviewed, the Commission shall further investigate the fitness and qualifications of each such applicant, utilizing all sources reasonably available within the time permitted by law. The Commission shall invite each such selected applicant to appear before a quorum of the Commission sitting as a whole to respond to questions by the Commission designed to determine the fitness of the applicant to serve on the Supreme Court, to serve as Statewide Prosecutor, or to serve as Capital Collateral Regional Counsel, as the case may be.

Prior to the interview of any applicant, each Commission member shall disclose to the remaining Commission members all negative information received by such member concerning any applicant.

At any time before its final vote is concluded, the Commission may request an applicant to reappear before the Commission to answer additional questions and to provide additional information.

Section V. Standards and Qualifications; Criteria

No person shall be recommended to the Governor or to the Attorney General for appointment unless the Commission finds such applicant to be fit for appointment after full and careful consideration. Consideration of applicants for appointment to the Supreme Court shall include, but not necessarily be limited to, the following criteria;

- (a) Applicable statutory criteria
- (b) Personal attributes
 - (1) Personal integrity
 - (2) Standing in community
 - (3) Sobriety
 - (4) Moral conduct
 - (5) Ethics
 - (6) Commitment to equal justice under law
- (c) Competency and experience
 - (1) General health
 - (2) Physical disabilities
 - (3) Intelligence
 - (4) Knowledge of the law and judicial system

- (5) Professional reputation
- (6) Knowledge and experience of the Supreme Court
- (7) Meets legal judicial requirements
- (d) Judicial capabilities
 - (1) Patience
 - (2) Decisiveness
 - (3) Impartiality
 - (4) Courtesy
 - (5) Civility
 - (6) Industry and promptness
 - (7) Administrative ability
 - (8) Possible reaction to judicial power
 - (9) Temperament
 - (10) Independence

To the extent applicable, such criteria shall also be considered with relation to applicants for the position of Statewide Prosecutor and for the position of Capital Collateral Regional Counsel. Every application shall be reviewed to determine that the applicant meets all constitutional and statutory requirements; including Section 16.56, F.S. for Statewide Prosecutor, and Section 27.701, F.S. for Capital Collateral Regional Counsels.

Section VI. Final Selection of Nominees

Upon conclusion of all investigation reasonably conducted and obtained by the Commission and after the procedures set forth in Section IV have been completed, the

Commission shall meet to select by majority vote qualified nominees from those persons having applied for such vacancy. For each vacancy on the Florida Supreme Court the commission shall select not less than three (3) but not more than six (6) nominees. For a vacancy in the office of Statewide Prosecutor or a vacancy in any office of Capital Collateral Regional Counsel the Commission shall select three (3) nominees. The Commission shall complete its work within thirty (30) days from the occurrence of the vacancy, unless the period is extended by the Governor. The names of nominees selected and recommended by the Commission for appointment to the Supreme Court shall be certified to the Governor in alphabetical order and a copy of all written investigative information and documents relating to each such nominee shall be furnished therewith. The names of such three (3) nominees selected and recommended by the Commission for appointment to the Office of the Statewide Prosecutor shall be certified to the Attorney General of the State of Florida in alphabetical order and a copy of all investigative information and documents relating to each such nominee shall be furnished therewith. The names of such three (3) nominees selected and recommended by the Commission for appointment as Capital Collateral Regional Counsel shall be certified to the Governor in alphabetical order and a copy of all investigative information and documents relating to each such nominee shall be furnished therewith.

Section VII. Procedure for Final Voting

1. Final voting procedures to nominate to the Governor or to the Attorney General qualified applicants from those interviewed will take place:
 - (a) After the Commissioners have had an opportunity to review the

- applications, supporting data, and all other pertinent information;
- (b) After the applicants selected by the Commission to be interviewed have been interviewed to the satisfaction of a majority of the Commission members;
 - (c) After the applicants have been discussed to the satisfaction of a majority of the Commission members; and
 - (d) Without any straw vote, unofficial vote, tentative vote, or official vote until the above-described steps have been taken, except that this limitation shall not apply to a screening process to reduce the number of applicants to be interviewed.
2. All votes shall be cast by written, secret ballot. On the initial round of voting each Commissioner shall cast six (6) votes, one per applicant. Any applicant who receives two (2) votes shall continue to the next round of voting.
 3. On each successive round(s) of voting, the number of votes cast by each Commissioner shall be reduced by one (1) and the minimum required to remain on the proposed list shall be raised by one (1) vote.
 4. This process shall continue until only three (3) applicants remain on the list or, if there is a tie for third place, more than three (3) shall be permitted so long as it is less than six (6). If there are more than six (6) then there will be a vote among those tied for third place with each Commissioner casting one (1) vote and only the person who receives the most votes shall remain on the proposed list.
 5. Following completion of the initial round of voting, any Commissioner can then move to reconsider an applicant who did not make the initial proposed list. If the motion is seconded, the Commission shall vote to reconsider the applicant.

Once the list of all persons for reconsideration has been determined, the Commission shall then vote on the list of persons being reconsidered. For that ballot, the number of potential votes each Commissioner may cast will be determined by subtracting the number of applicants already on the proposed list from the number of six (6). No Commissioner shall be required to vote but may cast up to the number of votes as determined above not to exceed one vote per applicant. Any applicant who receives at least five votes shall be added to the proposed list until there are not more than six (6) applicants on the proposed list.

If there is a tie for the last position, then the Commissioner shall vote on the tied applicants with each Commissioner casting one (1) vote, and the applicant with the most votes will be added to the proposed list.

6. After the proposed list is complete, any Commissioner may make a motion to remove anyone on the list. If it is seconded, a vote shall be cast on the applicant, with each Commissioner casting one (1) vote. If a majority of the Commissioners eligible to vote, vote in favor of the motion, the applicant shall be removed from the list.
7. Finally, a motion to declare the list final shall be made, seconded and if it receives a majority vote of the Commissioners, the final list shall then be complete and those names shall be submitted to the Governor.

Section VIII. Publication of Names of Nominees

The chair of the Commission shall make public the names of all persons recommended by the Commission for appointment by the Governor or by the Attorney General without indicating any preference of the Commission.

Section IX. Ethical Considerations

Judicial Nominating Commissioners hold positions of public trust. A Commissioner's conduct should not reflect discredit upon the judicial selection process or disclose partisanship or partiality in the consideration of applicants. Accordingly, a Commissioner shall not become an advocate for any applicant. Consideration of applicants shall be made impartially, and objectively.

A Commissioner shall disclose to other Commissioners present all personal, professional and business relationships with an applicant. In the event any applicant is a member of the judiciary, each member of the Commission shall disclose to the Commission all matters which he, she, or any of his or her clients have pending before such applicant. If a substantial conflict of interest is apparent, that Commissioner shall not vote on further consideration of any applicants so long as the applicant creating the conflict is under consideration during the selection of the initial three (3) nominees. In addition, the Commissioner shall not participate in the selection of any additional nominees so long as the applicant creating the conflict is eligible for consideration. The chair shall rule upon whether a substantial conflict of interest exists. All balloting by the Commission shall be by secret ballot and the chair shall be entitled to vote in all instances. Upon certification of the nominees to the Governor or to the Attorney General, no Commissioner shall contact the Governor or the Attorney General or any member of their offices or staffs, for the purpose of further influencing the Governor's or Attorney General's ultimate decision. However, if contacted by the Governor or Attorney General, or their offices or staffs, a Commissioner shall be entitled to answer questions

about each nominee. No attempt should be made to rank nominees or to otherwise disclose a preference of the Commission.

Section X. Misconduct

Each Commissioner shall be accountable to the Governor, their appointing authority and the chair for compliance with these rules and the proper performance of their duties as a member of the Commission. Each Commissioner affirms that under these rules the Governor, their appointing authority or the chair may dispose of any written complaint alleging the misconduct of one or more Commissioners or of the Commission, limited only by Article IV, Section 7 of the Constitution of the State of Florida. Each Commissioner further acknowledges that pursuant to Article IV, Section 7 of the Constitution the Governor may suspend from office any Commission member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform their official duties, or commission of a felony.

A complaint alleging the misconduct of one or more Commissioners (other than the chair) shall be reported in writing to the chair for action. Upon the chair's receipt of any such charges, the subject Commissioner(s) and the appointing authority of the subject Commissioner(s) shall be immediately notified thereof and thereafter kept continuously apprised of the status of such complaint through final disposition. The chair shall investigate any complaint if the allegations are in writing, signed by the complainant, and deemed sufficient by the chair. A complaint shall be deemed sufficient if the chair determines that it contains allegations which if proven would be a violation of these rules or reflects discredit on the judicial selection process. Prior to determining sufficiency the chair may require supporting information or documentation

as necessary for that determination. Upon determination of sufficiency, each charge: (a) may be disposed of by the chair solely; or, (b) may be referred by the chair for disposition by the appointing authority of the subject Commissioner exclusively, or with the concurrence of the chair, but in consultation with the Governor, the appointing authority of the subject Commissioner, and all other members of the Commission. Disposition of a complaint shall include a hearing which affords the opportunity for the presentation of evidence by all interested parties to be evaluated by a clear and convincing standard of proof. Action shall be taken within 60 days of receipt of any written complaint and its final disposition shall be immediately reported to the appointing authority, the chair and the Governor.

A complaint alleging the misconduct only of the chair shall be reported in writing to the appointing authority of the chair for action. Upon the appointing authority's receipt of any such charges, the chair shall be immediately notified thereof and thereafter kept continuously apprised of his or her status through final disposition. The appointing authority shall investigate any complaint if the allegations are in writing, signed by the complainant, and deemed sufficient. A complaint shall be deemed sufficient if the appointing authority determines that it contains allegations which if proven would be a violation of these rules or reflects discredit upon the judicial selection process. Prior to determining sufficiency the appointing authority may require supporting information or documentation as necessary for that determination. Upon determination of sufficiency, each charge shall be disposed of by the appointing authority, with the concurrence of the Governor when not otherwise involved as appointing authority, and in consultation with all other members of the Commission. Disposition of a complaint shall include a hearing which affords the opportunity for the

presentation of evidence by all interested parties to be evaluated by a clear and convincing standard of proof. Action shall be taken within 60 days of receipt of any written complaint and its final disposition shall be immediately reported to the Commission, the appointing authority and the Governor.

A complaint alleging the misconduct of the chair and one or more Commissioners shall be reported in writing to the Governor for action. Upon the Governor's receipt of any such charges, the chair and Commissioner(s) shall be immediately notified thereof and thereafter kept continuously apprised of their status through final disposition. The Governor shall investigate any complaint if the allegations are in writing, signed by the complainant, and deemed by the Governor to be sufficient. A complaint shall be deemed sufficient if the Governor determines that it contains allegations which if proven would be a violation of these rules or would reflect discredit on the judicial selection process. Prior to determining sufficiency the Governor may require supporting information or documentation as necessary for that determination. Upon determination of sufficiency each charge may be disposed of by the Governor solely, or may be referred by the Governor for disposition by the appointing authority of the chair or Commissioner, exclusively or with the concurrence of the Governor, but in consultation with both the appointing authority of the chair or Commissioner and with all other members of the Commission. Disposition of a complaint shall include a hearing which affords the opportunity for the presentation of evidence by all interested parties to be evaluated by a clear and convincing standard of proof. Action shall be taken within 60 days of receipt of any written complaint and its final disposition shall be immediately reported by the Governor to the appointing authority and members of the Commission.

Section XI. Annual Meeting; Selection of Chair; Local Rules; Safeguarding of Records

Annually, after July 1, the Commission shall designate a chair by majority vote to serve for one year and shall certify his or her name to the Governor. The chair's term shall end on July 1 of the next succeeding year or upon the election of his or her succession in office. The chair may be reappointed. After July 1st and the appointment of all Commission vacancies by the Governor and Board of Governors, the new Commission shall meet to elect by majority vote a vice chair who shall have at least two years remaining in their term. The vice chair shall automatically be nominated for chair at the next annual election held. Additional nominations of qualified persons for chair are allowed.

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

The Florida Bar (through its JNC Coordinator or other appropriate designated officer or employee) shall be the official depository and custodian of the records of the Commission.

The chair shall keep a permanent written record of all policies and procedures adopted by the Commission during his or her term and shall send a copy to the JNC Coordinator at The Florida Bar.

The Commission may adopt such additional operating rules, forms and notices as it may from time to time deem necessary, so long as they are not inconsistent with these rules. The Commission shall maintain continuous records of its proceedings. In

order that such records may be safeguarded, the Commission after completing its deliberations and submitting its recommendations to the Governor, shall place all remaining applications, questionnaires and other investigative data in a file, sealed by the chair, and transmit the same to the office of The Florida Bar. Minutes of each meeting affecting the official formal actions taken by the Commission shall be prepared and signed by the chair. The same shall be delivered to the Florida Bar where the same shall be preserved in a permanent file. The files will be available on a continuous basis to the Commission upon request, but the files may be destroyed on a yearly basis.

At the conclusion of the chair's term, the files of all written records of adopted policies and procedures shall be turned over to the newly elected chair. A copy of the same shall be permanently retained by the Florida Bar.

Section XII. Amendments

These rules may be amended by majority vote of the members of the Commission.