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Multnomah Bar Association Judicial Screening Process

Introduction

The MBA Judicial Screening Committee (JSC) is comprised of up to 21 MBA members and three public members, appointed by the MBA President. Members serve three-year terms, staggered so that approximately one-third of the members turn over each year.

To qualify for appointment as a public member, a person must work or reside in Multnomah County and be at least 21 years of age. No person may serve as a public member who is 1) a lawyer or former lawyer in any jurisdiction, 2) employed by a lawyer, 3) married to or a domestic partner of a lawyer, or 4) the parent, child or sibling of a lawyer. Public members should have familiarity with the legal system. Public members shall have the same authority and responsibilities as lawyer members of the committee, except that a public member may not serve as committee chair.

The committee is appointed with attention to diverse backgrounds, experience and practice areas. The MBA president shall appoint a committee chair from among the lawyer members of the committee. No committee member is eligible for appointment or election to any judicial vacancy for which the committee has responsibility. Three unexcused absences in any given committee year (July 1 – June 30) shall result in a recommendation to the president that the member be replaced.

During their tenure, members of the JSC shall not endorse candidates for election or appointment to Multnomah County trial court positions.

The committee follows carefully designed procedures and applies consistent criteria when screening judicial candidates. The goal of the judicial screening committee is to assist the governor in the process of appointing highly qualified lawyers to be judges on the Multnomah County Circuit Court. To that end, the committee chair will work closely with the governor's office to determine how the MBA can be most helpful in that process. At the beginning of each screening process, the chair will send a brief letter to all applicants, outlining the screening process that will be used.

The chair of the screening committee will orally provide to the governor's office information pertaining to each candidate. It is important that the MBA protect the confidentiality of its screening process to encourage candor in committee discussions and to encourage candor from those the committee contacts to discuss the candidates. Therefore, when sharing information with the governor's office, the chair may share the content of the comments made about the candidates but will not identify who made the comments, unless the person making the comments has given express consent to have his or her name shared with the governor's office.

The proceedings of the committee shall be kept in strictest confidence. Public requests for information regarding the committee's action shall be directed to the MBA President. The chair and the MBA President or MBA President's designated person shall be the sole spokespersons for the committee.

A copy of the MBA Judicial Screening Process and application forms are available by request from the MBA office at any time and may be found on the MBA website. Pro tem and judicial candidates must submit both a completed MBA application and the Supreme Court or governor's application, respectively.

Pro tem judge applicants, including referees, are screened by a similar process using the same criteria.

Governor's Appointments

A. Preliminary

Upon being advised of a judicial vacancy that will be filled by gubernatorial appointment, the JSC Chair shall:

1. Apprise committee members of the vacancy(ies) and provide notice of meeting dates and deadlines for completing the screening process.
2. Consult with the governor's office as needed to confirm that the MBA list of candidates is complete.
3. Assign committee members to research and interview individual candidates. Each candidate will be offered an opportunity to interview with a subcommittee. The number of members on each subcommittee is dependent upon the availability of committee members and the number of candidates. Subcommittees shall be balanced, to the extent possible, by type of practice, gender, background and experience.
4. Review with the committee the criteria against which qualifications are measured and the screening process to be followed.
5. Distribute each candidate's completed governor's "Interest Form for Judicial Appointments" and the completed MBA application form to the appropriate subcommittee chair. In the case of a short application turnaround time, copies of the applicant's completed governor's Interest form for Judicial Appointments may be obtained from the governor's office. If the confidential sections of this completed form are not forwarded by the governor's office, the chair will ask the applicant to send a full copy of completed interest form that was sent to the governor to the MBA, with a separate release to allow the MBA to evaluate the application; OR provide the applicant with a supplemental MBA form, which includes the confidential information and the signed release form.
6. Ensure that committee members obtain copies of any disciplinary complaint(s) filed against each candidate and their disposition(s).

B. Review Process

1. Committee members shall disclose to the committee any relationship with a candidate which might affect their impartiality.
2. No applicant shall appear personally before the committee, except at the request of the committee.

3. Committee recommendations shall be based solely on criteria approved by the MBA Board of Directors.
4. Applicants shall be evaluated without regard to race, religion, color, national origin, sex, age, sexual orientation, marital status, disability, political affiliation, expunged juvenile record, family relationship or any other non-merit factor.
5. The chair assigns committee members the task of investigating one or more candidates. The subcommittee members investigate each assigned candidate using the criteria established by the MBA. Investigations may be conducted by telephone or by meeting with references named in the application and with additional persons. Investigative work must be done by subcommittee members and may not be delegated. The members interview each candidate and research any disciplinary complaints against that candidate. Those persons contacted for information about candidates shall be encouraged to be candid and to provide all information they know about the candidate that is pertinent to the judicial opening. They shall be assured that their identities and any specific information they provide will remain confidential and will not be disclosed to anyone outside the committee, including the candidate.
6. In the event an applicant for a judicial position has already been considered once in the current term, the chair has discretion to not reassign the applicant for review. This will be handled on a case-by-case basis and the chair's decision can be reversed by a majority vote of the other members of the committee.
7. After investigation of all candidates is complete, the committee meets as a whole to discuss each applicant. The member(s) in charge of investigating an applicant will present the findings. All members will have an opportunity to add to the discussion. The chair will strive to ensure that discussion of applicants is limited to criteria against which qualifications are measured.
8. Other requests for information regarding the committee's action shall be directed to the president.

Pro Tem Judicial Appointments

A. Preliminary

MBA application forms for pro tem judge positions are available by contacting the MBA office or at www.mbabar.org. When a completed application is received at the MBA office, the chair of the MBA JSC shall communicate with the applicant advising the applicant of the approximate time it will take the committee to send its recommendation to the presiding judge. That time period can be as long as four months. Pro tem appointments are subject to renewal every three years; each applicant must track the expiration date of the appointment.

A quorum for the purpose of reviewing and recommending applicants for pro tem judge positions shall consist of one-half (1/2) of the committee, present personally or participating in the meeting by telephone conference.

B. Review Process

1. The chair assigns a committee member to investigate the applicant with respect to the established criteria using references named in the application and with other persons. For applicants who are sitting referees, the committee member shall attempt to contact the presiding judge and trial court administrator. Those persons contacted for information about the applicant shall be encouraged to be candid and to provide all information they know about the applicant that is pertinent to the applicant's appointment as a pro tem judge. They shall be assured that their identities and any specific information they provide will remain confidential and will not be disclosed to anyone outside the committee, including the applicant. The assigned committee member also researches any disciplinary complaints filed against the applicant.
2. The full committee meets to consider the application. At that meeting, the assigned committee member reports the results of the investigation and makes a recommendation. The committee shall use the same criteria for evaluating pro tem applicants as used in screening for permanent judicial positions, except that the committee may recommend that an applicant be given a qualified approval and limit its recommendation to certain pro tem functions. The committee reviews the report and the criteria and then votes on whether to recommend approval or disapproval of the application. Those applicants who receive more than fifty percent of the votes of those present are approved for recommendation.
3. The chair informs the presiding judge in writing by electronic mail whether approval of an application is recommended. The chair also sends a copy of the Supreme Court application to the presiding judge. A copy of the chair's report to the presiding judge is provided to the MBA president, MBA executive director and the applicant by electronic mail.
4. Upon the request of the Supreme Court or the presiding judge of Multnomah County, the MBA president, the JSC chair and others designated by the MBA president, may meet with Supreme Court justices or the presiding judge to review the findings of the JSC, including information regarding candidates who were not recommended for appointment or reappointment. No information will be revealed that can be attributed to any source; only general summaries of the committee's findings will be disclosed.
5. Other requests for information regarding the committee's action shall be directed to the president.

CRITERIA for JUDICIAL APPLICANTS

The committee shall use the following criteria for evaluating candidates for permanent or pro tem judicial positions:

- A. Integrity and character;
- B. Judgment and intellectual capacity;
- C. Experience including, but not limited to, trial experience;
- D. Industry and diligence;

- E. Judicial temperament, including whether the candidate would be courteous and considerate of counsel, parties, witnesses and jurors and whether the candidate is even tempered;
- F. Professional ability and knowledge of the law;
- G. Non-discriminatory attitude and behavior regarding, but not limited to, race, ethnic origin, gender, age, disability and sexual orientation;
- H. Contributions the candidate would make to the quality, character and diverse composition of the judiciary. The term "diverse" refers to a protected class and socio-economic background;
- I. General reputation in the community;
- J. Civic and community activities;
- K. Any other relevant facts that affect the applicant's ability to serve competently in a judicial capacity.

These criteria were developed from source materials including those from the American Judicature Society.