

**RULES OF THE JOINT BAR COMMITTEE**  
**ON JUDICIAL APPOINTMENTS**

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**RULES OF THE JOINT BAR COMMITTEE  
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**STATEMENT OF PURPOSE**

It is essential that the Commonwealth of Massachusetts maintain a judicial branch capable of fulfilling its Constitutional obligations and addressing the needs of the public. A competent, principled judiciary is the cornerstone of our system of justice. The Bar of the Commonwealth recognizes its responsibility to assist in the review of judicial appointments, in order to guarantee a thorough and consistent selection process and maintain a quality judiciary.

The function of the Joint Bar Committee shall be to review, evaluate and report on the qualifications of individuals under consideration for judicial appointments, including clerk-magistrates, to all Courts of the Commonwealth. The Committee shall, from time to time, evaluate candidates for judicial appointment to Federal Courts having jurisdiction over Massachusetts.

**I. MEMBERSHIP**

The Committee shall consist of twenty-five attorneys, representing a cross-section of the bar. There shall be one member from each county bar association; three members from the Boston Bar Association (hereinafter referred to as BBA); three members from the Massachusetts Bar Association (hereinafter referred to as the MBA); and six members from the non-county bar associations affiliated with the MBA. Each member shall serve for a three-year term, with appointments staggered such that the terms of eight or nine members shall expire each year. Any members may be re-appointed for an additional term, but in no event shall any member serve more than six years. The terms of appointment shall begin on September 1. The General Counsel of the MBA or his or her delegate shall be a non-voting member of the Committee and shall serve as Secretary to the Committee.

Each person appointed shall agree not to accept an appointment to judicial office during the term of appointment or for a period of one year after service has been completed.

It shall be the responsibility of all participating bar associations to nominate or appoint persons of diverse gender, age, race, color, creed, ethnic origin, and sexual preference, and persons with disabilities. All participating bar associations are also encouraged to nominate attorneys of varying experience.

**II. NOMINATION AND APPOINTMENT OF MEMBERS**

**A) NOMINATION/APPOINTMENT**

1. **Massachusetts Bar Association:** The MBA President shall appoint the members of the MBA so that there shall always be three MBA at-large members on the Committee. All appointments made by the MBA President shall be submitted to the secretary of the MBA on or before June 1 of each year. These appointments shall be submitted to the MBA House

of Delegates for confirmation at the first meeting of the House after June 1 each year.

2. Boston Bar Association: The BBA President shall appoint the members from the BBA so that there shall always be three BBA members on the Committee. All appointments made by the BBA President shall be submitted to the secretary of the MBA on or before June 1 of each year.
3. County Bar Associations: The MBA shall maintain an up-to-date list of Committee membership and shall notify the county bar associations on or before March 1 in any year of the expiration of any terms and nominations due regarding a member from the associations.

The President of each county bar association shall, with the advice and consent of its executive board, submit the names of two nominees to the President of the MBA on or before May 1 in each year in which there is a vacancy to be filled from that association, or at the request of the MBA President.

The MBA President shall appoint one of the two nominees submitted by each county bar association, so that there shall always be one member of each county bar association on the Committee.

4. Non-County Affiliated Associations: The MBA shall maintain an up-to-date list of Committee membership and shall notify the non-county affiliated associations on or before March 1 in any year of the expiration of any terms and nominations due regarding a member from the associations.

The non-county affiliated associations shall be represented by six members on the Committee. The President of each non-county affiliated association shall, with the advice and consent of its executive board, submit the names of two nominees to the President of the MBA on or before May 1 in each year in which there is a vacancy to be filled from that association, or at the request of the MBA President.

The MBA President shall appoint one of the two nominees submitted by the non-county affiliated associations so that there shall always be **six** such members on the Committee.

## B) REMOVAL

As set forth below, deadlines for votes on nominations or potential nominations shall be established by the Chair. There may be occasions in which more than one vote is to be taken on a given deadline. If a member fails to vote on three (3) successive nominations or potential nominations where the voting deadlines occur

on different days, the member shall be removed from the Committee. The Committee Chair shall notify the member of his or her removal by any appropriate means. The member may appeal his or her removal to the full Committee within fourteen (14) days of receipt of notice. No replacement shall be appointed during the pendency of an appeal. The member shall be provided an opportunity to be heard and may be reinstated by a vote of a majority of the members of the Committee present by any means (in person or telephonically) at that hearing.

C) VACANCIES

If a vacancy shall occur during the term of a member for any reason, the Committee Chair shall so notify the Presidents of the MBA and BBA.

1. If the vacancy occurs in the term of a BBA member, the BBA President shall forthwith appoint a new member to complete the unexpired term.
2. If the vacancy occurs in the term of an MBA at-large member, the MBA President shall forthwith appoint a new member to complete the unexpired term.
3. If the vacancy occurs in the terms of a non-county affiliated association member, the association shall submit a nominee within thirty days of notification, and the MBA President shall appoint the nominee to complete the unexpired term.

If any non-county affiliated association shall, at any time, fail to submit nominations when due, the MBA President shall appoint a member from that non-county affiliated association to fill the term.

4. If the vacancy occurs in the term of a county bar association member, the MBA President shall request the name of a nominee from that county bar association. The association shall submit a nominee within thirty days of notification, and the MBA President shall appoint the nominee to complete the unexpired term.

If any county bar association shall, at any time, fail to submit nominations when due, the MBA President shall appoint a member from that county bar association to fill the term.

### **III. COMMITTEE OFFICERS**

#### **A) APPOINTMENT**

If these Amended Rules are approved and take effect prior to September 1, 2002, the then-current Chair, appointed by the MBA President, and the Vice-Chair, appointed by the BBA President, shall continue until August 31, 2002. In the following year, the BBA President shall appoint a Chair and the MBA President shall appoint a Vice-Chair for respective one-year terms. Selection and appointment of the Chair and Vice-Chair shall rotate annually thereafter.

If these Amended Rules are approved and take effect on or after September 1, 2002, the Chair shall be appointed by the BBA President, and the Vice-Chair shall be appointed by the MBA President and their terms shall continue until August 31, 2003. In the following year, the MBA President shall appoint the Chair and the BBA President shall appoint the Vice-Chair for respective one-year terms. Selection and appointment of the Chair and Vice-Chair shall rotate annually thereafter.

#### **B) DUTIES**

1. The Chair shall appoint subcommittees as he or she shall deem appropriate, call meetings, coordinate all communication between the Committee and the Governor, coordinate all communication between the Committee and the Governor's Council, maintain communication with the bar associations, and oversee all duties and functions of the Committee.
2. The Vice-Chair shall perform the above duties in the absence of, or by delegation from, the Chair.

### **IV. COMMITTEE PROCEDURE**

Each year, the Committee Chair shall establish a direct liaison with the Governor in order to facilitate the review and evaluation process. Each nomination or potential nomination shall be received with ample time to undergo proper consideration and review. Following the investigation and evaluation set forth below, the Chair shall report the Committee's evaluation to the Governor's Office and/or the Governor's Council in time to enable the Governor and/or the Governor's Council to consider such evaluation prior to any final decision regarding nomination or appointment.

**V. INVESTIGATION**

**A) INITIATION OF INVESTIGATION**

Upon receipt, notice or knowledge of a nomination or proposed nomination, the Committee Chair shall obtain such resumes, questionnaires and other information as are necessary or appropriate. The Chair shall distribute the material to all Committee members.

**B) METHODS OF INVESTIGATION**

If circumstances warrant, the Committee may interview the candidate.

Committee members shall:

1. Examine the resumes, questionnaires and other available information;
2. Interview judges, attorneys, court personnel and other individuals who may have pertinent information regarding the candidate;
3. Receive comments and information from other Committee members;
4. If circumstances warrant, committee members may individually speak with or request clarification from the candidate and/or review any legal writings of the candidate;
5. Obtain such further information as may be necessary or proper.

**VI. EVALUATION**

**A) CRITERIA FOR EVALUATION**

The Committee shall maintain a consistent evaluation process, which shall include an assessment of:

1. The candidate's integrity, character and reputation;
2. The candidate's knowledge and ability in the field of law;
3. The candidate's professional experience. In evaluating experience, the Committee recognizes that women and members of certain minority groups have entered the profession in large numbers only in recent years and that their opportunities for advancement in the profession may have been limited;
4. The candidate's judicial temperament;

5. The candidate's work habits and diligence;
6. The candidate's financial responsibility;
7. The candidate's commitment to public service;
8. Such other criteria as the panel for Committee shall from time to time deem necessary to complete a full and fair evaluation.

B) EVALUATION

After Committee members have reported their findings, the Committee shall consider and vote upon the evaluation of the candidate as: "well qualified"; "qualified"; "not qualified" or "insufficient information to evaluate."

C) VOTING

1. Voting may be accomplished by such means as may be established by the Chair.
2. The Chair shall also establish a deadline by which all Committee members must vote.
3. A quorum of 13 members voting by the established deadline shall be necessary for the vote to be valid. If a valid vote has occurred, a candidate receiving a majority of votes cast in any given category by the established deadline shall be reported to the Governor and/or the Governor's Council as "well qualified", "qualified", "not qualified" or "insufficient information to evaluate."

If a candidate receives less than a majority of votes of "well qualified", but when votes of "qualified" and "well qualified" are combined those combined votes constitute a majority of all votes cast, that candidate shall be reported as "qualified".

4. In the event that the Committee has voted a candidate "not qualified" or "insufficient information to evaluate," the candidate shall be immediately notified and afforded an opportunity to be heard by the Committee. Immediately following said hearing, the Committee members present may vote to reconsider the prior vote. Upon a majority vote of the Committee members present and voting, the Committee shall revote upon the candidate in such manner and at such time as the Chair shall establish.
5. Upon the completion of the original voting or revote, the Chair shall submit the evaluation to the Governor and/or the Governor's Council.

## **VII. CONFIDENTIALITY**

### **A) INVESTIGATION**

The Committee shall seek information and conduct investigations on a confidential basis.

In the event that the name of the person under consideration has not been made public, the name of the person under consideration shall be disclosed only to those being interviewed or assisting in the investigation.

### **B) EVALUATION**

If the investigation and evaluation has preceded nomination, the Chair shall submit the Committee's evaluation to the Governor in confidence. In no event shall the name of any person concerning whom the Committee has made an evaluation and who is not subsequently nominated be disclosed.

Upon nomination by the Governor to the Governor's Council of any person for appointment to office, the Chair shall submit the Committee's evaluation to the Governor's Council and may make public whether it has voted the candidate "well qualified", "qualified", "not qualified" or "insufficient information to evaluate," and the basis therefore.

Except as set forth above, all information gathered by the Committee, the discussion upon a given candidate and the actual votes taken shall be confidential and shall not be disclosed. In the event that the Committee conducts a hearing pursuant to Section VI(C)(4) above, the Committee's concerns may be shared with the candidate as the Committee deems necessary to permit the candidate an opportunity to respond.

## **VIII. FEDERAL COURTS**

The Chair shall from time to time offer the services of the Committee to the persons charged with responsibility for the appointment of judges and magistrate-judges to the United States District Court for the District of Massachusetts, the United States First Circuit Court of Appeals and/or the United States Supreme Court, including the President, the United States Attorney General, and the Senators from Massachusetts. The Committee shall evaluate such nominations in the same manner as set forth above and shall report in such manner as the Chair shall deem appropriate.

## **IX. PAYMENT OF EXPENSES**

Members shall be reimbursed by their respective bar associations for expenses incurred in Committee service as shall from time to time be necessary or appropriate.

**X. PROCEDURES AND POLICIES**

The Committee may establish such further procedures and policies, not in conflict with these rules, as it shall from time to time see fit.

**XI. AMENDMENTS**

These rules may be amended from time to time by the concurrent action of the House of Delegates of the MBA and the Council of the BBA, in accordance with the rules of those respective bodies. Such amendment shall take effect following the vote of the last of the two bodies to act.

## **ADDENDUM A**

In order to establish the staggered rotation of members as provided in Article I, in the first year the Committee members are appointed hereunder, appointments will be as follows:

1. Four county bar members, one Boston Bar member, one Massachusetts Bar at-large member and one affiliated bar member shall be appointed for a one-year term.
2. Four county bar members, one Boston Bar member, one Massachusetts Bar at-large member and one affiliated bar member shall be appointed for a two-year term.
3. Five county bar members, one Boston Bar member, one Massachusetts Bar at-large member and one affiliated bar members shall be appointed for a three-year term.

Thereafter, as each member's term expires, each subsequent appointment shall be for a three-year term.

(Effective: 1/24/92)

(Superceded: 5/14/02)

## **ADDENDUM B**

The terms of the present members of the Committee as set forth on the attached membership roster shall expire as of August 31 of the year identified. As each member's term expires, each subsequent appointment shall be for a three-year term.

In order to establish the staggered rotation of the three additional non-county affiliated bar members as provided in the revisions to Article I, appointments will be as follows:

1. one non-county affiliated bar member shall be appointed for a one-year term, commencing on September 1, 2002, and ending on August 31, 2003;
2. one non-county affiliated bar member shall be appointed for a two-year term, commencing on September 1, 2003, and ending on August 31, 2004; and
3. one non-county affiliated bar members shall be appointed for a three-year term, commencing on September 1, 2004, and ending on August 31, 2005.

Thereafter, as each member's term expires, each subsequent appointment shall be for a three-year term.

(Effective: 5/14/02)