

APPROVED by the Board of Governors 5/20/97

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NEW HAMPSHIRE BAR ASSOCIATION  
Judicial Screening Procedure

1. The New Hampshire Bar Association's (NHBA) Board of Governors evaluates the professional qualifications of nominees to the New Hampshire State Courts. In conducting its evaluation of each nominee, the Board focuses strictly on professional qualifications: integrity, professional competence, and judicial temperament. The Board does not consider a nominee's philosophy, political affiliation, or ideology. The Board's objective is to provide impartial peer review evaluations of the professional qualifications of judicial nominees. The Board's goal is to help ensure that qualified persons serve on the State Courts. This furthers the NHBA's goal of improving the administration of justice in our State.
2. At the beginning of each gubernatorial term, the President<sup>1</sup> of the NHBA ("President") shall inform the Governor's Office that the New Hampshire Bar Association wishes to participate in evaluating proposed judicial nominees. The effectiveness of this procedure rests, in part, on forming relationships with relevant parties to this process. Among other issues, good relationships and communications with the Governor's Office may help to ensure that the NHBA is afforded sufficient time to complete its peer reviews. Therefore, the NHBA, through the President (or his or her designee), executive director, and relevant staff, shall try to keep in regular contact with the following non-exclusive list of individuals/offices:
  - (a) Governor's Counsel
  - (b) The Director of Appointments
  - (c) The Judicial Selection Commission
  - (d) NHBA's Lobbyist
3. In recognition of the extensive time that it takes to conduct this peer review process, at any point during his or her term, the President may designate one or more board members to carry out the responsibilities, in whole or in part, that are set forth under this policy. This may include arranging for an interview of a nominee, designating board members to make phone calls, and running the meeting where the nominee is interviewed, and the Board deliberates.
4. Upon learning of a judicial nomination, the President shall contact the Executive Council's staff to confirm the nomination.

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<sup>1</sup> The President of the New Hampshire Bar Association shall include any person designated to act on the President's behalf, including the President-Elect, Vice President, or a representative designated under paragraph three (3) of this policy.

5. The President shall invite each nominee to participate in the NHBA's judicial nominee review process.
6. Following such invitation, the NHBA shall provide the nominee with a Judicial Selection Waiver form. The Executive Director shall arrange for a timely return of the Waiver form and shall request the Judicial Nominee's Application from the Governor's Office. The President shall notify the Board of the receipt of the Judicial Nominee's Application and shall make it available for review prior to the meeting of the Board of Governors to consider the nominee's qualifications.
7. The President shall forward a confidential written inquiry regarding the nominee to the New Hampshire Supreme Court Professional Conduct Committee and, if appropriate, to the Committee on Judicial Conduct.
8. The President or any members of the Board designated by the President ("investigator(s)") shall conduct an investigation into the nominee's qualifications. This investigation shall include brief confidential interviews of people who know the nominee, inquiring into the nominee's reputation and qualifications for the nominated position.
  - (a) The Board should attempt to conduct at least ten (10) confidential inquiries of a cross-section of people who know the nominee. In no case shall the Board make fewer than five (5) inquiries.
  - (b) At least one person may be designated to read all writing samples provided to the Board (assuming that the nominees writing samples have been provided to the board). The President and/or one or more investigators may attempt to obtain additional writing samples of briefs, articles, or judicial opinions that have been written by the nominee, especially if the nominee has been selected for the State Supreme Court.
  - (c) If the Board is unable to fully comply with any requirements set forth above, due to time constraints or otherwise, the President shall disclose this fact in its letter with its rating that is sent to the Governor, the Executive Council, and the nominee. The President shall state the reason the procedure(s) were not completed in its letter, and why the Board felt that it could still provide a rating, despite this circumstance.
9. If there is no regularly scheduled Board of Governors' meeting before the Executive Council hearing on the nominee's judicial nomination, a special Board meeting shall be held at which:
  - (a) the nominee's completed Judicial Selection Application, any written summaries from the investigators, and any feedback from the Professional Conduct Committee and the Committee on Judicial Conduct shall be considered;

- (b) the President and the Board member(s) who conducted the investigation of the nominee shall report on their inquiries;
  - (c) the nominee shall be interviewed by the Board; and
  - (d) any adverse information obtained by the President and/or investigators and used in the rating of the nominee shall be shared with the nominee to the extent the Board believes fairness requires disclosure.
10. Upon completion of the process described in the preceding paragraph, the Board shall vote<sup>2</sup> and make one of the following findings:
- (a) the Board finds the nominee “well qualified,” based on highly favorable information received to find that the nominee satisfies the requirements in all three evaluation criteria – integrity, professional competence, and judicial temperament;
  - (b) the Board finds the nominee “qualified,” based on sufficient information received to find that the nominee satisfies the requirements in all three evaluation criteria – integrity, professional competence, and judicial temperament;
  - (c) the Board finds the nominee “not qualified,” because the nominee does not meet the Board’s standards with respect to one or more of its three evaluation criteria – integrity, professional competence, and judicial temperament. The Board shall include the basis for such finding.
11. If the Board, due to the short timeframe between a nomination and a confirmation hearing, or due to some other circumstance, does not have enough information, or cannot, for another reason, provide an official rating for a particular nominee, the Board shall so advise the Executive Council, the Governor’s Office, and the Nominee that they are unable to provide an official rating, along with a brief description of the reasons therefore. If the board is not able to have a vote in accordance with the NHBA Constitution and Bylaws, the Board may issue a recommendation saying that the majority of Board members attending voted to support. (see footnote 2 below).
12. The President shall notify the nominee of his or her rating, if practicable, before notifying the Executive Council and the Governor’s Office, but such notice shall not be greater than twenty-four (24) hours advance notice.
13. In addition, unless the nominee withdraws from the confirmation process, the Board’s rating shall be communicated in writing to the Governor, Executive Council, and the nominee.

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<sup>2</sup> Said vote shall be by a quorum of the Board. Pursuant to Article III, Section 3 of the Bylaws, if a quorum is not present at the interview of the nominee, sufficient Board members to constitute a quorum may ratify the vote, in writing, by fax, email, or any technologies that can accomplish the same result.

THE NEW HAMPSHIRE BAR ASSOCIATION RECOGNIZES AND IS COMMITTED TO THE NEED FOR ABSOLUTE CONFIDENTIALITY IN THIS PROCESS. ALL INVOLVED SHALL BE REMINDED OF THE NEED TO MAINTAIN STRICT CONFIDENTIALITY.