

**NEW HAMPSHIRE BAR ASSOCIATION**  
**Judicial Screening Procedure**  
**Approved by NHBA Board of Governors August 11, 2025**

**Introduction**

There are two possible ratings that a nominee may receive from the New Hampshire Bar Association (NHBA): Qualified and Not Qualified. These ratings are strictly based on the professional qualifications of the nominee, which are based on three evaluation criteria: integrity, professional competence, and judicial temperament. The NHBA does not consider a nominee's philosophy, political affiliation, ideology, race, religion, ethnicity, gender, disability or perceived disability, or sexual orientation in evaluating candidates.

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 as this furthers the NHBA's purpose of improving the administration of justice in our State. (See Constitution of the New Hampshire Bar Association, Article I, Purposes)

**Procedure**

At the beginning of each gubernatorial term, the President<sup>1</sup> of the NHBA ("President") should inform the Governor's Office that the New Hampshire Bar Association wishes to participate in evaluating proposed judicial nominees. The NHBA, through the President (or their designee), Executive Director, and appropriate 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

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.

Upon learning of a judicial nomination, the President (or their designee) shall contact the Governor's Director of Appointments and Liaison to the Executive Council to confirm the nomination.

The President (or their designee) shall invite each nominee to participate in the NHBA's judicial nominee review process.

Following such invitation, the NHBA shall provide the nominee with a copy of this procedure and NHBA Judicial Selection Waiver form. The Executive Director (or their designee) shall arrange for a

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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.

timely return of the Waiver form and shall request the Judicial Nominee's Application from the Governor's Office including all writing samples and other supporting documentation submitted as part of the application. The President (or their designee) 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.

The President (or their designee) 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.

The President, and any members of the Board, shall inquire into the nominee's qualifications. This inquiry shall include:

- An email to the full NHBA membership, notifying the membership of the nomination and inviting confidential feedback, in writing or orally, on the nominee's reputation and qualifications. The email shall identify the names and contact information for each member of the NHBA Board of Governors. This approach is meant to ensure the ability of interested members of the bar to provide feedback on a nominee.
- Confidential discussion with people who know the nominee, inquiring into the nominee's reputation and qualifications for the nominated position. The Board should attempt to conduct at least ten (10) confidential inquiries of a cross-section of attorneys and/or judges who know the nominee. In no case shall the Board make fewer than five (5) inquiries.

While confidentiality cannot be guaranteed, Board members shall follow the following practices regarding the confidential feedback received:

- (a) Board members tasked with making inquiries about the nominee shall provide a verbal summary of feedback received to the other members of the Board before a vote is taken. Such summary shall anonymize the feedback unless the interviewee states in writing that they do not wish to remain anonymous. Members should be mindful of situational feedback that may identify the interviewee and fashion their report so as to avoid any unintentional disclosure.
- (b) When Board members receive negative feedback about a candidate, they shall ask the interviewee to provide as much detail as possible with specific examples of when such conduct occurred, where it occurred and the nature of the conduct. It is important for the Board member to ascertain if the feedback represents a single person's opinion or observation and whether it represents an isolated incident or a pattern of behavior. Any potential biases should be ruled out as well, including but not limited to whether the conduct occurred in the context of a contentious case, whether the reporting party is engaged in contentious litigation with the nominee at the time the feedback is received, or any other relevant consideration.
- (c) Members who learn of confidential feedback through this process shall keep this information confidential and not further disseminate the information in any way.

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.

A Special Executive Session Board Meeting shall be scheduled before the Executive Council hearing on the nominee's judicial nomination at which:

- (a) the nominee's completed Judicial Selection Application, any written materials from the Professional Conduct Committee and the Committee on Judicial Conduct shall be considered;
- (b) the President and the Board member(s) who received feedback from members of the NHBA of the nominee shall report on their inquiries.

After the Board discusses items (a-b), the nominee shall be interviewed by the Board. During the interview, any adverse information obtained by the Board which may be used in the rating of the nominee shall be shared with the nominee to provide them with an opportunity to respond to said adverse information.

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 "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.
- (b) 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.

To merit the rating of

- 1. Qualified, the Board finds sufficient information was received to find that the nominee satisfies the requirements for all three evaluation criteria.
- 2. Not Qualified, the Board finds the nominee did not meet the standards with respect to one or more of the three evaluation criteria.

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

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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.

Constitution and Bylaws, the Board may issue a recommendation saying that the majority of Board members attending voted to support. (see footnote 2 below).

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.

When rating a nominee, the Board's findings shall be communicated in writing to the Governor, Executive Council and the nominee. This communication may include any concerns, reservations or observations that the Board may have regarding the nominee. If a nominee is rated Not Qualified, the Board President, or their designee, shall contact the nominee and the Governor as soon as practicable and inform them of the rating. The written communication referenced above shall be publicly available on the Bar's website as soon as practicable, unless the candidate withdraws their nomination for any reason prior to publication.

### **Explanation of Evaluation Criteria**

The NHBA recognizes that it is not possible to formalize a comprehensive or mathematical evaluation procedure. However, some degree of uniformity and consistency is essential for a fair peer review process. The Board may consider the below-listed non-exhaustive list of relevant considerations when deliberating on the three evaluation criteria.

Further, the NHBA recognizes that knowledge and ability are not static qualities but are acquired and enhanced by experience and by the continual learning process involved in keeping abreast of changing concepts through education and study. While a nominee should possess a high level of legal knowledge, a nominee should not normally be expected to possess expertise in any particular substantive field or numbers of substantive fields. Most important is the demonstration of the ability (and willingness) to learn the new skills and knowledge needed for successful judicial performance.

Lastly, although substantial trial experience is desirable, other types of legal experience should also be carefully considered. A private practitioner who has developed a large clientele, a successful law teacher and writer, or a successful corporate, government or public interest attorney may all have experience which will contribute to successful judicial performance. Extensive experience litigating cases in a way that demonstrates his or her skills and knowledge of the litigation process, even if ultimately settled before trial, should also be considered. Outstanding persons with such experience should not be deemed unqualified solely because of a lack of significant in-court trial experience. The important consideration is the depth and breadth of the professional experience and the competence with which it has been performed, rather than the nominee's particular type of professional experience.

### **Evaluation Criteria**

#### **1. Integrity**

*Does the nominee "satisfy" this evaluation criteria?*

YES

NO

- Character

- General Reputation
- Reputation for honesty and truthfulness
- Ability to disregard prejudices
- Ability to admit responsibility for mistakes
- Humility
- Absence of arrogance
- Impartiality
- Industry
- Diligence
- Attendance

## 2. Professional Competence

*Does the nominee “satisfy” this evaluation criteria?* YES NO

- Intellectual capacity
- Ability to interpret and apply established legal principles to specific factual situations
- Judgment
- Writing and analytical abilities
- Knowledge of the law
- Breadth of professional experience
- Substantial courtroom experience / knowledge of court system
- Trial experience
- Experience similar to in-court trial work can substitute for a lack of trial or in-court experience
- Distinguished accomplishments in the field of law
- Civic activities
- Public service

## 3. Judicial Temperament

*Does the nominee “satisfy” this evaluation criteria?* YES NO

- Compassion
- Decisiveness
- Open-mindedness
- Courtesy
- Patience
- Freedom from bias
- Commitment to the ideals of equal justice under the law

**THE NEW HAMPSHIRE BAR ASSOCIATION RECOGNIZES AND IS COMMITTED TO THE NEED FOR CONFIDENTIALITY IN THIS PROCESS.**

Approved by the NHBA Board of Governors, August 11, 2025.