

CAPITAL DISTRICT WOMEN'S BAR ASSOCIATION COMMITTEE ON THE JUDICIARY RULES AND PROCEDURES

ARTICLE I

Statement of Purpose

Section 1: Purpose.

The Capital District Women's Bar Association (CDWBA) Committee on the Judiciary (the Committee) shall evaluate and rate the qualifications of judicial candidates who have been nominated to or otherwise undertaken steps in furtherance of a campaign for the judicial office of Justice of the Supreme Court in the Third Judicial District. The Committee may, in its discretion, also evaluate and rate the qualifications of judicial candidates who have been nominated to, filed nomination petitions for, or otherwise undertaken steps in furtherance of a campaign for the judicial office of Justice of the Supreme Court in the Fourth Judicial District or any other judicial office in Albany, Rensselaer or Schenectady Counties, or in any adjacent counties. It shall be the purpose of this Committee to elevate the quality of the judiciary, among other means, by recommending for judicial office only those attorneys who have demonstrated excellence in judicial qualities, by encouraging political parties and their leaders to endorse for election and re-election only well qualified lawyers and judges, and by discouraging the candidacy of those who are not well qualified. The Committee's evaluations and ratings shall be conducted in light of CDWBA's mission as set forth in article I, § 3 of the CDWBA By-Laws.

Section 2: Confidentiality.

To fulfill the purposes of the Committee in accordance with the aforesaid principles, full and frank discussions is mandatory. Consequently, and lest the Committee lose the confidence of the candidates, attorneys, judges and other individuals upon whom it relies for information, the deliberations of the Committee, any written reports generated by or for the Committee and the comments received by the Committee from members of the public, bench and bar must be held in strict confidence by each member of the Committee equal to the confidentiality required in an attorney-client relationship. Any member of the

Committee alleged to have breached this duty of confidentiality may be referred to the CDWBA Board of Directors (the Board) for action consistent with article XI of the CDWBA By-Laws.

ARTICLE II

Composition and Organization of the Committee

Section 1: Membership.

The Committee shall consist of 7 to 11 members of CDWBA in good standing, as appointed by the CDWBA President on or before July 31. Of the members to be appointed in fiscal year 2019-2020, three shall be appointed to serve for one year and the remainder shall be appointed to serve for either a two- or three-year term. Thereafter, as the terms of the members expire, the successors shall serve for three-year terms. A Committee member may be appointed to serve on the Committee more than once but shall not serve more than two consecutive terms. To the extent practicable, the membership of the Committee should reflect the geographic, demographic and experiential diversity of the membership of CDWBA. No member of the Committee shall seek election to a judicial office during the term of her service on the Committee.

In accord with article IX, section 13 of the By-Laws of the Women's Bar Association of the State of New York, for purposes of evaluating candidates for the judicial office of Justice of the Supreme Court in either the Third or Fourth Judicial District, the Committee may solicit the participation of representative members of the Adirondack Women's Bar Association, the Thousand Islands Women's Bar Association, the Mid-Hudson Women's Bar Association and the Women's Bar Association of Orange and Sullivan Counties, as the case may be.

Section 2: Committee Officers.

The Committee shall have a Chair, as appointed by the CDWBA President on or before August 15, who shall serve a one-year Term and who shall preside at all meetings of the Committee. At the Committee's first meeting each fiscal year, the Chair shall designate two of the Committee's members to serve as Secretary and Assistant Secretary, respectively. The Secretary shall record the proceedings of the Committee, and the Assistant Secretary shall perform the duties of the Secretary in the Secretary's absence or disability.

Section 3: Quorum and Voting Requirements.

The quorum for the Committee to interview and rate candidates is a majority of the Committee's membership. A member must be present at the interview of the candidate in order to participate in the vote on the rating of that candidate.

Section 4: Recusal and Disqualification.

If a member of the Committee has a conflict of interest involving any of the candidates, she shall disclose that conflict to the Chair who will make a preliminary determination on whether the conflict acts as a disqualification to that member's participation in that ratings cycle. If the member does not wish to serve to avoid the conflict, he or she may decline to serve during that ratings cycle. If he or she wishes to serve, the Chair will consider if the conflict can be disclosed and waived, or whether recusal is required. The member will be bound by the decision of the Chair on whether or not recusal is required. If the Chair determines that conflict is one that can be addressed by disclosure and waiver, the Chair will disclose the conflict in the following order to seek the consent of the parties to the member's continued service: (1) the candidate with whom the conflict arises, (2) the remaining members of the Committee, and (3) the remaining candidates for the judicial office at issue. If the Chair determines that recusal is necessary, or if a candidate or a majority of the Committee fails to give consent to the waiver of the conflict, the Committee member who has the conflict will not serve during the rating cycle.

ARTICLE III Criteria and Ratings

Section 1: Ratings.

A. Candidates Who Participate in the Committee's Evaluations

- i. The ratings for the candidates will be "Approved" or "Not Approved." The "Approved" rating is available for candidates who, in the opinion of a majority of the Committee members present and voting, possess the necessary criteria and qualifications for the office which the candidate seeks. The "Not Approved" rating is available for candidates who, in the opinion of a majority of the Committee members present and voting, do not possess the necessary criteria and qualifications for the office which the candidate seeks. The rating shall be determined by secret written

ballot based upon the criteria and qualifications set forth in article III, section 2, infra.

- ii. The additional rating of "Commended" is available to all candidates found "Approved" who, in the sole discretion of the Committee, have demonstrated an outstanding sensitivity and dedication to issues affecting women in the legal profession and in society generally. The "Commended" rating shall not be an endorsement of any candidate, and such rating may be provided to more than one candidate for a particular judicial office in a given rating period.

B. Candidates who do not participate in the Committee's evaluations or who have withdrawn pursuant to article III, section 3 will have no rating published.

Section 2: Criteria and Qualifications.

The criteria and qualifications which will be used to rate the various candidates include, but are not limited to:

- A. Integrity
- B. Experience
- C. Professional competence, especially with regard to the judicial office being sought
- D. Independence
- E. Judgment
- F. Temperament
- G. Intellect

Section 3: Adverse Determinations.

A candidate who receives a "Not Approved" rating shall be so notified, by the Chair, at least two days in advance of the release of such ratings for publication. When notifying a candidate that he or she has received a rating of "Not Approved," the Committee shall provide the candidate with a written general explanation of the factors underlying such rating. The explanation shall be sufficiently general so as to protect the confidentiality of all who gave information pertinent to the rating or participated in any deliberations thereon. Each candidate receiving a rating of "Not Approved" shall also be promptly provided with the procedure for requesting reconsideration and the date when the ratings

will be published. At any time prior to the date fixed for publication of the rating, the candidate may withdraw his or her application upon written notice to the Chair, whereupon no rating of that candidate will be published.

Section 4: Duration of Rating.

A candidate's rating for a particular judicial office shall remain in effect for 12 months from the date such rating is published, unless the candidate requests a de novo rating during that time whereupon he or she may submit to another evaluation and determination by the Committee.

ARTICLE IV Evaluation Procedure

Section 1: Identification and Solicitation of Candidates.

The Committee shall identify, at its first meeting each fiscal year, which judicial offices are to be filled in the next general election and thereafter determine which such judicial offices the Committee will be conducting ratings for pursuant to article I, section 1, supra. Thereafter, the Committee shall invite candidates for the specified judicial offices to submit for evaluation. Such invitation shall be by direct correspondence on CDWBA letterhead and by advertisement on the CDWBA website and Facebook account.

Section 2: Questionnaire and release.

The Committee shall request all candidates who are to be rated for judicial office to submit a completed written questionnaire which submission shall constitute a formal application for judicial rating. In addition, each candidate shall be provided with a copy of these Rules and Procedures and a list of names of the Committee members who will be serving during the rating cycle. Each candidate shall also submit a written release consenting to the divulgence to the Committee of any materials relating to the making, investigation and determination of complaints made against the candidate before an Attorney Grievance Committee or the Commission on Judicial Conduct. The members of the Committee and the Administrative Director of CDWBA shall have a fiduciary duty to keep all personal or confidential information contained in the candidate's application confidential and shall not disclose same to anyone who is not a member of the Committee or, in the event of a request for reconsideration pursuant to article IV, section 4.E, infra, a member of the Executive Committee of CDWBA.

Section 3: Solicitation of CDWBA Membership Input.

All members of CDWBA may be invited to provide the Committee with input regarding the qualifications of the candidates. All input shall be accompanied by the name of the member submitting the input, but the identity of the member shall remain confidential to the Committee. Input should be solicited at least one (1) week prior to any candidate's interview through a mailing (print or electronic) to CDWBA membership.

Section 4: Proceedings and Deliberations of the Committee.

- A. All candidates who have submitted the materials required by article IV, section 2, supra shall be scheduled for interview by the Committee. Prior to interviewing the candidates, the members of the Committee shall have read the written materials submitted by the candidates, and shall have discussed all input received from other members of CDWBA or members of the community at large, including the references provided by the candidate. In advance of the interviews, the Committee shall also discuss and agree on the conduct of the interviews and the appropriate questions for use therein.
- B. A quorum of the Committee, as defined in article II, section 3, supra, shall be present at the interviewing of and voting on any candidate. Only the Committee members present at the interview of every candidate interviewed for a particular judicial office shall vote on a rating for any of the candidate in that vacancy cycle. The Chair shall be responsible for maintaining order and dignity throughout the interviews. Each member of the Committee shall have the right to pose appropriate questions to the candidates during the personal interview for the purposes of determining the qualifications of such candidate. No member of the Committee shall be permitted to ask questions that would require any candidate to specify the ruling that she/he would make on a particular issue. Any candidate may decline to answer a question he or she deems to be inappropriate and will be notified in advance of the interview of his or her right to do so.
- C. Voting shall be by secret ballot, and each member of the Committee shall have full and equal voting rights. No member may abstain from voting other than by recusal pursuant to article II, section 4, supra. No member of the Committee shall vote by proxy or vote in any manner if he or she

was not present for all interviews for a particular judicial office during the rating cycle.

D. CDWBA shall notify all candidates, or their designated representative(s), of the Committee's ratings within 96 hours of the personal interview. In order to facilitate the reconsideration process set forth in article IV, section 4.E, infra, where the Committee has rated any candidate "Not Approved," the ratings will not be disclosed to any other persons, including the media, until at least 48 hours has passed from disclosure of the ratings to the last candidate. If no "Not Approved," rating will be issued, the ratings may be disclosed to the media and other interested persons on the date previously set by the Committee and shared with all candidates.

E. Reconsideration Process for a Rating of "Not Approved,"

- i. Only a candidate who has received a "Not Approved" rating may file for reconsideration.
- ii. The candidate may file a request for reconsideration to the Executive Committee of CDWBA by notifying the Administrative Director, within 24 hours after he or she has been notified of the Committee's ratings. Such notification shall be made email at administrator@cdwba.org, but shall only be effective upon acknowledgment of receipt by the Administrative Director by reply email.
- iii. The Executive Committee of CDWBA will convene in person to hear and decide all requests for reconsideration within two business days of receipt by the Administrative Director of a candidate's request.
- iv. The candidate may make a presentation to the Executive Committee on his or her own behalf, either in person or by telephone, and the Chair may make a presentation on behalf of the Committee to the Executive Committee. The candidate may present any evidence or information, oral or written, indicating that he or she is qualified for the judicial position sought. No confidential information presented to the Committee may be revealed to the candidate during the reconsideration process. However, confidential information presented to the Committee may be revealed to the candidate in the reconsideration process if such information was a reason used by the Committee to rate the candidate "Not

Approved," but the identity of the person giving such information to the Committee shall always remain confidential and the vote of the Committee shall always remain confidential. Confidential information includes, but is not limited to, comments from the membership, comments from the Committee, comments from references, and the vote of the Committee.

- v. The Executive Committee of CDWBA is charged with the responsibility to determine whether the Committee's "Not Approved" rating was erroneous in light of the evidence presented to it. Within 24 hours after the presentation to the Executive Committee, the Executive Committee shall notify the candidate and the Chair, in writing, of its determination, but it shall not be required to specify the reasons underlying the determination. The Executive Committee's determination shall become the candidate's rating and, at that time, the ratings will be released to the media and other interested persons immediately.