

# **RULES OF THE JUDICIAL NOMINATION COMMISSION**

**Revised December 2, 2009**

## **Rule 1. Organization -- Duties – Quorum**

- 1.1 The Commission shall elect from its members a Chair who shall preside over meetings and exercise all powers consistent with these Rules and necessary to the efficient operation of the Commission.
- 1.2 The Commission shall elect from its members a Secretary who shall:
  - a. Keep a record of all proceedings of the Commission;
  - b. Assist the Commission Chair;
  - c. Act as corresponding secretary with the Chief Justice of the Supreme Court and the Office of the Governor;
  - d. Issue all notices of vacancies to the media as required by Rule 2;
  - e. Set the time and place for meetings in consultation with the Chair;
  - f. Issue all notices to applicants; and
  - g. Serve as the Commission's authorized correspondent with applicants, the public and the media.
- 1.3 Four members shall constitute a quorum for the transaction of business.

## **Rule 2. Notice of Vacancy**

- 2.1 Within ten (10) days of the date of receipt by the Commission Secretary of the notice from the Chief Justice of the Supreme Court that a vacancy has occurred or an effective date of judicial resignation has been announced, the Commission shall notify media outlets with general statewide circulation and other appropriate sources that a vacancy has been announced.
- 2.2 The notice shall briefly describe the vacancy the qualifications required of applicants for nomination, and the procedure by which eligible persons may apply to fill the vacancy.

## **Rule 3. Applications for Vacancy**

- 3.1 The application and instructions required by the Commission for all vacancies is attached to these Rules as Appendix 1.
- 3.2 Eligible persons may file an application for the vacant judicial position by completing and returning the application provided by the Commission by the date contained in the application instructions, which shall be within forty (40) days of the Secretary's receipt of the notice provided by the Chief Justice.
- 3.3 All applications and required copies shall be returned to the Secretary of the Commission at such address as the Commission designates in the application instructions.

- 3.4 Applications received by mail but not postmarked by the application deadline are untimely and shall be rejected.
- 3.5 Applications are considered documents related to the proceedings of the Commission subject to public disclosure pursuant to Rule 7.

**Rule 4. Investigation -- Public Comment – Review**

- 4.1 The individual members of the Commission are authorized to gather information and investigate the qualifications of all applicants.
- 4.2 Members of the public may provide their comments concerning any applicant or application, and a specific period of public comment will be identified and noticed.
- 4.3 Written public comment constitutes documentation relating to the proceedings of the Commission and shall be open to the public except where the demands of individual privacy clearly exceed the merits of private disclosure. The procedure to be followed by any member of the public seeking to assert individual privacy rights with respect to his or her written comments regarding an applicant is the same as that set forth in Rule 7.2, below.
- 4.4 The Secretary will compile a complete file of public comments received by all Commissioners and create an index of such comments. The public comments shall be available to the public and the Commissioners electronically.

**Rule 5. Opportunity for Interview of Applicants**

- 5.1 The Commission reserves the right to dispense with some or all of the applicant interviews based upon a review of the applications and public comment.
- 5.2 The Secretary shall notify each applicant to be interviewed at least 10 days prior to an interview and advise the applicant of the time and place.

**Rule 6. Selection of Nominees – Format of Reports**

- 6.1 As soon as practical following interviews as specified in Rule 5, the Commission shall, following discussion, with the concurrence of at least four (4) members of the Commission, compile a list of not less than three and not more than five nominees for submission to the Governor or Chief Justice.
- 6.2 The Commission shall list the nominees in alphabetical order, certify the nominees' qualifications, and provide the written report required by Section 3-1-1010, MCA.
- 6.3 The Secretary shall submit the Commission's list of nominees and report to the Governor or Chief Justice, together with the originals of each nominee's

application and all letters and written comments received concerning each nominee.

- 6.4 The Commission shall submit its list of nominees within ninety (90) days of the Secretary's receipt of the notice of vacancy from the Chief Justice.

**Rule 7. Public Disclosure – Privacy -- Exception**

- 7.1 All meetings, proceedings of the Commission and documents shall be open to the public except when, by a majority vote of the Commission, it is declared that the demand of individual privacy clearly exceeds the merits of public disclosure.
- 7.2 At the close of the applicable period, applications will be forwarded to the Office of Court Administrator for posting on the judicial branch website. This posting shall constitute the Commission's only publication of the content of applications. Social security numbers, home addresses, and home telephone numbers will be redacted from the application copies before they are sent to the Office of Court Administrator. An applicant who believes that the demands of individual privacy clearly exceed the merits of public disclosure of any information, in addition to these specified items, must submit such information, including any answer to any question(s) in the application, in a separate sealed envelope, expressly asserting his or her personal right of privacy in the space provided for the answer in the application and referring the Commission to the attached sealed envelope. The Commission will then make its own determination, balancing the asserted privacy right against the merits of public disclosure, and notify the applicant of any decision to publicly disclose such information five (5) days prior to any disclosure.
- 7.3 All documents received by the Commission shall be open to the public and may be viewed by interested parties during normal business hours at the office of the Secretary of the Commission.

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