

WASHINGTON ASSOCIATION OF PROSECUTING ATTORNEYS JUDICIAL EVALUATION PROCEDURES

I. Goals and Definitions

A. The goals of the Washington Association of Prosecuting Attorneys (WAPA) evaluation are:

1. To sustain and strengthen the judiciary through the appointment and election of excellent judicial Candidates; and
2. To provide the voters (and in case of appointment, the Governor), of Washington State with judicial Candidate information focusing on judicial qualifications important to prosecuting attorneys, including crime victim's rights and needs, public safety issues, public governance, and the roles of the three branches of government in the justice system; and
3. To assist judicial Candidates in expressing to Washington voters their experience and expertise in, and treatment of, issues important to the prosecution community.

B. For purposes of these procedures, the following definitions apply:

1. "Board" refers to the Board of Directors for the Washington Association of Prosecuting Attorneys.
2. "Chair" is the Chair of the Judicial Evaluation Committee.
3. "Committee" refers to the Judicial Evaluation Committee appointed by the WAPA Board and governed by these Judicial Evaluation Procedures.
4. "Candidate" refers to a person seeking rating for election or appointment to a current or future vacancy.
5. "Neutral Decision Maker" is one who decides cases and/or issues free from bias or favoritism and whose decisions are based on interest of serving justice and the public good; exercising prosecutorial discretion in civil or criminal matters is an example of a "neutral decision maker" when made without bias or favoritism and made with the goal of serving justice and ensuring the public good.

6. "President" is the President of the Washington Association of Prosecuting Attorneys.
7. "Rating" is the evaluation of a Candidate for election or appointment as Exceptionally Well Qualified, Well Qualified, Qualified, or Unqualified.

II. Authority of Committee

A. The Committee may evaluate only those Candidates seeking election or appointment to:

1. The Washington State Supreme Court.
2. The Washington State Court of Appeals.

III. Candidate Evaluation Committee - Membership, Terms, Qualifications and Disqualifications

A. The Committee shall be a standing committee comprised of seven or more members, including the Chair. Each Committee member shall be appointed by the President for a term of two years. In addition, the Washington Association of Sheriffs and Police Chiefs shall have the authority to nominate one member of their organization to serve as a non-voting member of the Committee.

The President will advise the WAPA membership of vacancies on the Committee and the necessary qualifications of Committee members. WAPA members may nominate persons qualified to serve on the Committee. Individual members may also advise the President directly of their interest in serving on the Committee.

The appointment process shall give special consideration to the need for diversity on the Committee. Every member of the Committee shall have practiced as a lawyer for at least four (4) years. No members of the same county prosecutor's office shall serve on the Committee at the same time.

To try to assure the Committee is representative of the WAPA membership the President shall make a special effort to appoint:

1. At least three members who practice in Central or Eastern Washington, at least one of whom must be from a county with a population of 100,000 persons or less.

2. At least three members who currently practice in Western Washington, at least one of whom must be from a county with a population of 100,000 persons or less.
3. Preference should be given to appointing elected prosecutors, and at least three Committee members shall be elected prosecutors.

B. The Chair of the Committee shall be a WAPA Board Member or Officer. The Chair of the Committee shall be selected by the WAPA President. The Chair of the Committee shall schedule and conduct an orientation for each new Committee member covering all policies and procedures.

C. The Committee shall meet as necessary to consider rating of Candidates for the positions set forth in Section II above.

D. Upon resignation, or inability of a Committee member to complete a term, the President shall appoint a person to fill such vacancy for a two-year term. The new appointee shall begin work on the Committee immediately. No vacancy or absence of a member shall preclude the Committee from performing its duties so long as the quorum requirements of Subsection J below are met. Inability to complete a term may include the Committee Chair's determination that a member is unable or unwilling to comply with the Committee's procedures or fairly participate in evaluations.

E. A Committee member shall refrain from any activity which might impair the integrity or impartiality of the Committee. Such activity includes, but is not limited to, endorsing or denouncing a Candidate for any of the positions listed in Section II, soliciting funds or other support for a Candidate, or participating in a Candidate's campaign, where such activities occur prior to completion of the evaluation process for all Candidates. Any such activity will preclude the Committee member from participating in the evaluation of any applicant for the position sought by the Candidate. Such activity may also result in termination from the Committee if the Chair determines the member is unwilling to comply with the Committee's Procedures (see Subsection D above).

F. A Committee member will disqualify himself or herself from the evaluation of Candidates for a position if he or she has any actual bias for or against a particular Candidate. Committee members shall disclose to the Committee any relationship with any Candidate which might appear to affect their impartiality toward a Candidate being evaluated. Following disclosure, if a Committee member wishes to participate in the Candidate interview and rating vote, the Committee, by majority vote of members present, shall decide whether participation by that Committee member is appropriate.

G. A Committee member shall recuse from participation in the evaluation of

any Candidate who worked in the same office as the Committee member within the last six months.

H. A Committee member who becomes a Candidate for the Court of Appeals or Supreme Court may not participate in any evaluations for any Candidates for the specific position they are seeking during the election cycle in which the Committee member is a candidate.

I. Committee members shall forswear seeking appointment or election to the specific vacancy or position for which the Committee is conducting an evaluation in the current election cycle.

J. A quorum for purposes of interviewing, deliberating, evaluating and voting on a rating or other matter before the Committee shall be no fewer than three members.

IV. Committee Duties

1. Interview, investigate, evaluate and rate Candidates for election or appointment to positions listed in Section II above.
2. Make reasonable efforts to inform all Candidates of the procedure for obtaining a WAPA rating promptly after a Candidate publicly declares the intent to seek an appellate judicial position.
3. Advise the Office of the Governor or other recommending or appointing authority of WAPA's desire to evaluate applicants for appointed positions.
4. Ensure that the evaluation process is rigorous, unbiased and uniform and that the resulting ratings are a trustworthy expression of a Candidate's qualifications as seen from the perspective of prosecutors.
5. Treat all Candidates professionally and courteously.
6. Report the Committee's recommendations to the Board in a timely manner.
7. Publish or disseminate final ratings after approved by the Board.
8. Maintain permanent Committee records, which will be limited to an official file to be maintained by the Chair and will include the following:

- a) One copy of the information questionnaire furnished by each Candidate, along with other information collected concerning that Candidate;
- b) One copy of each list of Candidates and each letter of transmittal of the list to the Board and/or appointing authority;
- c) Other official correspondence of the Committee;
- d) Minutes of Committee meetings, including the names of Committee members attending, the ratings of each Candidate, and any other decisions made.
- e) The Chair may maintain additional temporary files as may be necessary, for the orderly administration of the Committee.

V. Evaluation Procedures

1. The Committee shall use the uniform questionnaire required by the Governor for appointment to one of the positions set forth in Section II above. The questionnaire shall be supplemented, if necessary, with the names of at least two prosecuting attorneys or deputy prosecuting attorneys who are familiar with the Candidate's qualifications. The Committee may also adopt an addendum specifically addressing WAPA concerns.
2. Except as provided elsewhere in this Section V, the following items are required to be completed and reviewed by all Committee members participating in a Candidate's rating in order for the Committee to forward the rating to the WAPA Board:
 - a) A completed WAPA judicial questionnaire
 - b) Reference checks
 - c) A summary of appellate opinions authored by Candidates with appellate judicial experience
 - d) A Candidate interview by the Committee
3. A Candidate with experience as an appellate level judge who either declines or otherwise does not complete all of the items in Subsection 2 above may be rated if the Committee decides to do so by majority vote. Such ratings shall, at a minimum, be based upon

review of authored judicial opinions, and interviews of persons who have appeared before the Candidate in court. Any published rating of a Candidate conducted under this subsection may include a notation describing the Candidate's lack of participation.

4. The Committee shall promptly respond to any Candidate who makes a timely request to be rated. The response shall include a copy of these procedures, and include all necessary instructions to permit the Candidate to complete the rating process.
5. Candidates shall submit a completed uniform questionnaire, with all attachments in .PDF format to the Committee's staff at least 20 days prior to the interview, unless a later date is allowed by the Chair.
6. Committee members will contact a suitable number of references for each Candidate to gain a sense of the Candidate's abilities and reputation in diverse communities. A minimum number of references shall be set by the Committee. Reference interviews shall be conducted before the Candidate interview. Reference interviews shall be conducted using uniform questions to facilitate comparison by the Committee, but references should be encouraged to share additional facts not covered by the uniform questions. References shall include contacts with the Candidate's chosen references and independent contacts by Committee members. The Committee, in its discretion, may contact additional references after the interview but prior to the Candidate's rating.
7. The Committee will advise the membership of the Washington Association of Prosecuting Attorneys of the Candidates to be rated before they are interviewed. WAPA members with personal knowledge of relevant characteristics of a Candidate may provide input to the Committee for consideration in the rating process.
8. The Committee staff or members shall prepare a summary of significant judicial writings of Candidates who have served in an appellate judicial capacity. To the extent that they have a bearing on a Candidate's qualifications, the Committee staff or members may summarize other significant writings or judicial opinions in which the Candidate joined in or dissented from.
9. The Committee shall interview each Candidate in a standardized manner, including a uniform set of questions for all Candidates in a given election or appointment cycle. Non-standard follow-up questions or questions particular to an individual Candidate may also be asked. At least three elected prosecutors should participate in Candidate interviews. Interviews should be face-to-face if at all

possible.

10. The Committee, by majority vote, may waive the interview requirement if (1) the Committee has sufficient information to make an informed and reliable rating, and (2) the Candidate is unable or unwilling to participate in an interview. Any publication of a rating for which there was no Candidate interview may include a notation describing the absence of a Candidate interview.
11. The Committee will decide upon a rating for each Candidate after review of the all provided information sources. Ordinarily, this should be done immediately after the Candidate interview. Committee ratings shall be based on the scoring system described in Section VI below. The Committee shall not place unjustified emphasis on any single source of information in scoring candidates. No information will be considered by the Committee unless its source is known. The Committee shall strive for consensus on each rating. If consensus cannot be reached, ratings shall be by majority vote. At least three Committee members must participate in an evaluation for a valid rating recommendation to be submitted to the Board.
12. The Committee will promptly advise the Board of the Committee's recommended rating for each Candidate in a given election or appointment cycle. The recommendations shall be transmitted to the Board sufficiently in advance of the election or appointment deadline to have a meaningful opportunity of informing the Governor or the voters.
13. The Board, by majority vote, may take one of the following actions as to each Candidate:
 - a) Adopt. The Board may ratify and adopt the recommendation as the official WAPA rating for the Candidate. If a rating is adopted, the Candidate shall be notified by the Chair, and the ratings should be promptly published in a manner designed to reach as many voters as possible. In the case of ratings for gubernatorial appointments, the rating shall be communicated to the Governor.
 - b) Reject. The Board may reject the recommendation of the Committee. The Candidate shall be notified only that the Board rejected the proposed rating by the Committee. Neither the Committee's recommended rating, nor the fact that the Committee conducted an evaluation shall be publicized. In the case of a gubernatorial appointment, the Governor shall be notified that the Board rejected the Committee's recommended rating, without indicating what the recommendation was.

c) Reconsider. The Board may require the Committee to reconsider its rating for a Candidate. The Board should include comments and reasons for its request. After reconsideration, the Committee may consider any comments made, change its recommendation or let it remain unchanged. At that time, the Board may either Adopt or Reject the rating recommendation.

d) The Board is prohibited from substituting its own rating for the rating recommendation submitted by the Committee.

VI. Criteria for Rating Candidates.

A. Scoring Rubric

Candidates shall be evaluated in each of the following characteristics, using the best available sources of information to score each characteristic. The scores shall all be on a scale of 1 to 5, as described for each attribute. The highest score for each attribute is 5.

1. Understanding of powers and duties of position sought
1 = Complete lack of understanding
5 = Exceptional understanding including all subtleties and complexities
2. Personal and Professional Integrity
1 = Little to no integrity; Candidate presents as untrustworthy
5 = Highest integrity and ethical behavior, sets an example for the profession
3. Respect for the law and legal process
1 = No demonstrated understanding or respect for rule of law
5 = Shows highest regard for primacy of law and legal institutions
4. Legal acumen and clarity of thinking
1 = Confused thinking and poor legal skills
5 = Exceptional intellect, legal knowledge and thought processes; brilliant
5. Ability to communicate effectively
1 = Unable to make self understood by others
5 = Outstanding ability to succinctly convey ideas and concepts to diverse audiences, both orally and in writing
6. Experience as neutral decision maker
1 = No experience
5 = Experience exceeding that of the vast majority of lawyers and judges
7. Temperament
1 = Rude or off-putting, commands no respect, held in poor regard by others
5 = Treats all with dignity and civility; naturally respected by others.

8. **Work ethic**
1 = Appears to be, or has reputation as lazy; tardy in producing legal work
5 = Driven, dedicated, timely and exceptionally productive
9. **Leadership ability**
1 = Alienates colleagues and subordinates, or easily overshadowed by others; considered a "lone wolf"
5 = Colleagues and subordinates eagerly follow and carry out Candidate's ideas
10. **Respect for separation of powers of three branches of government**
1 = No respect; believes in expediency or primacy of one branch over others
5 = Utmost respect, even at expense of Candidate's own power or authority
11. **Respect for rights of crime victims**
1 = Complete disregard for crime victims' rights
5 = Strong belief in protecting rights of victims
12. **Balance between protecting the public from criminals and protecting the rights of individuals charged with crimes**
1 = Leans excessively toward one side or the other
5 = Demonstrates outstanding ability to effectively balance the two, understands the consequences of discretionary decisions that do not strike the proper balance

B. No Rating.

A Candidate shall be given no rating:

1. If the Candidate does not meet the statutory qualifications to hold the position sought.
2. If the Candidate served as a member of the Committee and in any way participated in rating other Candidates for the same position.
3. If the Candidate requested a rating from the Committee but failed to provide all materials and participate in an interview, unless the Committee decided to rate the Candidate notwithstanding the omissions, pursuant to Section V.3 or Section V.10.
4. If the WAPA board Rejected the Committee's recommended rating.
5. Any publication of the absence of a rating under subsections 1, 2 or 3 of this section B will be accompanied by the reason that No Rating is given.

C. Compilation of Scores and Ratings

1. Each member of the Committee participating in a rating will

determine a score for each characteristic and then sum the scores for each Candidate. The average of the scores of all the Committee members shall determine the Candidate's presumed rating according to the ranges described below.

2. A Candidate's presumed rating will be determined from the following tables:

For Candidates to the Court of Appeals:

| RATING | Min. Score | Max. Score |
|------------------------------|-------------------|-------------------|
| Unqualified | 12 | 30 |
| Qualified | 31 | 43 |
| Well-Qualified | 44 | 52 |
| Exceptionally Well Qualified | 53 | 60 |

For Candidates to the Supreme Court:

| RATING | Min. Score | Max. Score |
|------------------------------|-------------------|-------------------|
| Unqualified | 12 | 35 |
| Qualified | 36 | 47 |
| Well-Qualified | 48 | 55 |
| Exceptionally Well Qualified | 56 | 60 |

3. The Committee members may then consider whether a rating should be adjusted to a Rating of one above, or one below the presumed rating.
 - a) For Candidates to the Court of Appeals, the Committee may adjust a Candidate's presumed score by no more than 2 points up or down. Adjustments may only be made by majority vote of Committee members who participated in the subject Candidate's entire evaluation.
 - b) For Candidates to the Supreme Court, the Committee may adjust a Candidate's presumed score by no more than 3 points up or down. Adjustments may only be made by majority vote of Committee members who participated in the subject Candidate's entire evaluation. In making adjustments for Supreme Court Candidates, the Committee shall consider the unique qualities necessary to sit on the highest court in the State, including a demonstration of insight into how the court operates, identification

of concerns/problems of the court and how they do or may affect the prosecution community, and a strong desire to better administer justice.

D. Until the ratings described in this Section have been used to the satisfaction of the Committee for two election cycles, the Committee may modify the correlation between the scores and the ratings, and may modify the characteristics described in Subsection A.

VII. Applicability of Ratings.

A. The Committee's ratings will be specific to the Court of Appeals or the Washington Supreme Court based upon the request of the Candidate. A Candidate may request ratings for both the Court of Appeals and the Washington Supreme Court. A rating will be effective for two years.

B. When a person previously rated by the Committee seeks rerating for the same position, the Committee shall use its discretion in determining if further evaluation is necessary to make a subsequent rating.

C. A Candidate may request a subsequent interview if the Candidate is a Candidate for a different position within that two (2) year period. Absent such a request, the rating shall remain unchanged.

VIII. Effective Date

These procedures were approved by majority vote of the WAPA Board of Directors on March 15, 2012 and became effective immediately thereafter.