

**WHATCOM COUNTY BAR ASSOCIATION JUDICIAL  
CANDIDATE EVALUATION COMMITTEE RULES  
AND PROCEDURES**

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**WHATCOM COUNTY BAR ASSOCIATION**  
**JUDICIAL CANDIDATE EVALUATION**  
**COMMITTEE RULES AND PROCEDURES**

**1. Definitions.**

1.1 “**Association**” means the Whatcom County Bar Association.

1.2 “**Candidate**” means any person seeking election to the Whatcom County Superior Court; Whatcom County District Court or Bellingham Municipal Court.

1.3 “**Committee**” means the Judicial Candidate Evaluation Committee.

1.4 “**Quorum**” means at least five Committee members, at least one of whom must be either Chairperson or designees of the Chairperson

2. **Authority.** The Association has established the Committee to carry out the rating and other functions set forth in these Rules and Procedures. The Committee exists and functions under the Bylaws of the Association and these Rules and Procedures.

**3. Purposes of the Committee.**

The purpose of the Committee is to improve the judiciary in Whatcom County by rating Candidates on the basis of merit making public the ratings regarding the Candidates in contested elections so that the public may be better informed. This purpose is to be accomplished in a manner that is justifiable and fair, and perceived to be so. In fulfilling this purpose, the Committee shall rate and shall disseminate its ratings of Candidates in contested elections in the manner set forth in these Rules and Procedures.

4. **Committee Responsibilities.** The Committee shall rate all Candidates in contested elections, and any other Candidates for election who request a rating, for judicial positions on the Bellingham Municipal Court, Whatcom County District Court and Superior Courts.

**5. Composition of Committee.**

5.1 **Number.** The Committee shall be composed of up to nine members, one of which shall serve as Chairperson. Each person appointed as a member of the Committee shall be a member for all purposes, except as expressly stated otherwise within these Rules and Procedures, and shall be entitled to vote on all matters before the Committee, consistent with these Rules and Procedures.

**5.2 Members**

5.2.1 **Selection of Initial Committee:** The current Judicial Candidate Evaluation Committee (the “Drafting Committee”) shall appoint nominate the initial members of the Committee, including its initial Chairperson and the members of the Association shall elect the

initial members. No member of Drafting Committee shall be eligible to serve as an initial Committee member. The initial members of the Committee shall be separated into three groups of three members each designated as Group A, B and C, respectively. Group A members shall serve for three years; Group B members shall serve for four years; and Group C members shall serve for five years.

**5.2.2 Termination of Initial Members;** At the end of three years after the initial formation of the Committee, the terms of three members in Group A shall terminate, and three new Group A members shall be appointed to serve for three years. At the end of four years after the initial formation of the Committee, the terms of three members in Group B shall terminate, and three new Group B members shall be appointed to serve for three years. At the end of five years after the initial formation of the Committee, the terms of three members in Group C shall terminate, and three new Group C members shall be appointed to serve for three years.

**5.2.3 Appointment of New Committee Members Beginning at the end of the third Year of Committee Existence:** Beginning in the end of the third year of Committee existence, the terms of each Group of members shall expire on the third year anniversary of that Group of members joining the Committee and that Group shall be replaced by three newly appointed Group of members who shall serve for three years. New members shall be selected through nomination by a committee comprised of the three outgoing members and the WCBA President. Those nominations shall be submitted to the members of the WCBA for approval at a regular WCBA meeting.

**5.2.4 Eligibility:** Committee members must current members of the Washington State Bar Association or former members who have resigned and were in good standing at the time of the resignation.

**5.3 Chairperson.** The Chairperson of the Committee shall be appointed for a term of one year. Beginning in the second year of the Committee's existence, the Chairperson shall be appointed by majority vote of the Committee.

**5.4 Vacancies.** At least once a year, the Committee leadership shall review the Committee membership and fill any vacancies.

## **6. Rights and Obligations of Committee Members.**

**6.1 Attendance and Diligence.** All members of the Committee shall be advised of the need to devote adequate time to the work of the Committee and shall commit to devote such time. The Chairperson may recommend to the President of the Association the termination or replacement of any Committee member for failure to devote adequate time to the work of the Committee, for failure to attend Committee meetings, or for any other good cause. As necessary, the Chairperson shall advise Committee members of their responsibility for performing tasks assigned to them in a diligent manner and for attending Committee

meetings.

6.2 **Secrecy and Fidelity.** Members of the Committee shall be pledged to absolute secrecy in connection with all matters that come before the Committee and the proceedings shall be kept in strictest confidence and not divulged by any person, except to the extent specifically set forth in these Rules and Procedures.

6.3 **Support or Endorsement of Candidates.** Committee members shall not personally endorse, campaign for, or contribute financially to any Candidates who are running for election to any office for which the Committee has responsibility, or who are seeking appointment to any such office. Committee members shall not make any advance commitment with respect to a Candidate that might affect their impartiality (or appearance of impartiality).

6.4 **Seeking Appointment or Election.** For a period of one year following a Committee member's resignation or removal from the Committee or for one year following the expiration of a Committee member's term on the Committee, whichever shall first occur, a Committee member shall be ineligible: (a) for appointment or election to any judicial position for which the Committee has responsibility, and (b) to participate in the rating process as a Candidate for appointment or election to any judicial position for which the Committee has responsibility.

6.5 **Right Not to Participate.** A Committee member may at any time elect not to participate in the proceedings of the Committee for reasons such as actual or perceived conflicts of interest or concerns about appearance of fairness.

6.6 **Obligation Not to Participate.** A Committee member shall not participate in the interview or vote on the rating of a Candidate if:

- (a) the Candidate is in the same firm as the Committee member;
- (b) the Candidate is in a business relationship with the Committee member, or is in a space sharing relationship with the Committee member;
- (c) the Committee member is related to the Candidate by blood or marriage, or is the domestic partner of the Candidate;
- (d) the Committee member has been sanctioned by, has filed a Bar complaint against, or has had a Bar complaint filed against him or her by the Candidate;
- (e) the Committee member has a personal bias or prejudice concerning the Candidate that may materially affect the member's ability to render a fair and impartial rating and evaluation;
- (f) the Committee member has personally endorsed, campaigned for, or contributed financially to the Candidate's election or appointment to the office that is the subject of the rating; or

(g) under a reasonable person standard, the Committee member's participation in the interview or vote creates an actual or perceived conflict of interest or causes concerns about the appearance of fairness.

Notwithstanding the foregoing, all Committee members shall be entitled to provide background information about a Candidate.

6.7 **Execution of Pledge.** Committee members shall accept appointment to the Committee only upon providing an express written pledge acknowledging that the member has read and understands the specific rights and obligations of Committee members as set forth in this Paragraph 6 and agrees to be bound by them.

6.8 **Right of Chairperson to Disclose.** Notwithstanding the duty of confidentiality set forth in this Paragraph 6, a Chairperson and the Committee shall have the authority and discretion to disclose specific matters which have come before the Committee and the conduct and content of a Committee's deliberations to the President or the Executive Committee of the Association.

## 7. **Records.**

7.1 **Records to Be Maintained.** Committee records shall be limited to a single official file to be maintained by the Chairperson of the Committee. The file shall be kept confidential and shall include the following material only:

(a) one copy of the completed questionnaire furnished by each Candidate, one copy of any correspondence between the Candidate and the Association, and such other information the Chair deems appropriate;

(b) one copy of the list of Candidates appearing before the Committee and their ratings;

(c) one copy of each letter of transmittal of the list of qualified applicants for appointment and other official correspondence;

(d) records of Committee meetings, including the names of Committee members in attendance, the ratings of each Candidate, and any other decisions made.

7.2 **Temporary Files.** The Chairperson may maintain possession of such additional temporary files as may be necessary for the orderly administration of a Committee during the term of the Chairperson.

7.3 **Retention of Records.** Any records to be maintained by the Chairperson pursuant to this Rule shall be disposed of after six years.

8. **Pre-Rating Procedures.** Where reasonably practicable, the Committee shall

follow these pre-rating procedures:

**8.1 Responsibility to Timely Seek Ratings.** It is the Candidate's responsibility to seek a rating from the Committee timely. The Committee cannot guarantee that it will be able to rate a Candidate in any less than eight weeks after the Committee receives a completed Judicial Candidate Evaluation Questionnaire, as described in Paragraph 8.3 below, from the Candidate. The Committee may issue a "Refused to Cooperate in the Judicial Candidate Evaluation Process" rating, pursuant to Paragraph 9.4.6 below, to a Candidate who fails to timely provide the information and materials the Committee needs to rate the Candidate.

## **8.2 Initial Materials and Pre-Screening of Candidates Seeking Appointment**

**8.2.1 Information Provided to Candidates.** Candidates seeking a rating by the Committee shall be provided by the Committee with a package of materials relating to the work of the Committee, including: (a) a copy of these Rules and Procedures, and (b) information about the Committee and its Rules and Procedures, including a general discussion of the rating process, the composition of the Committee, the timing of the Committee's work, the manner in which the Candidate will be notified of action by the Committee, and other matters that may be of interest to the Candidate. The package of materials shall include material informing the Candidate that it is the Candidate's responsibility to ensure that all materials relevant to the rating sought by the Candidate are made available to the Committee in a timely manner, whether or not requested by the Committee. A Candidate's election not to provide material relevant to the rating may preclude that material being considered pursuant to Paragraph 9.3.12.

**8.3 Judicial Candidate Evaluation Questionnaire.** Each Candidate shall be provided with a form of Judicial Candidate Evaluation Questionnaire developed by the Committee. Each Candidate shall be requested to complete the questionnaire and deliver it to the Chairperson in sufficient time to allow the questionnaire to be distributed to the Members prior to the Committee meeting. All copies of a Candidate's questionnaire shall be returned to the Chairperson and destroyed after use, except for one copy which shall be retained in the Committee's permanent file consistent with Section 7.1, above. The questionnaire shall be reviewed by the Committee from time- to- time and revised as necessary.

**8.4 Candidates to Notify Committee of Material Changes.** Candidates shall be required to promptly notify the Committee if there are any material changes in the responses of the Candidate to the questionnaire between the time the questionnaire is completed by the Candidate and the expiration of the rating. The questionnaire and the explanatory statement provided to each Candidate shall advise the Candidate of the need to promptly notify the Committee if there are material changes.

**8.5 Reference Check Form.** A reference check form has been developed by the Committee for use by Committee members in discussions with references either listed by a Candidate in the questionnaire or otherwise contacted by Committee members. All completed reference checks forms and other notes of contacts with references shall be returned to the Chairperson. Completed reference check forms and other notes of contacts with



references shall be either destroyed by the Chairperson or maintained by the Chairperson for utilization at any re- interview, and then destroyed, except for one copy which shall be retained in the Committee permanent file, consistent with Section 7.1, above. The reference check form should be reviewed by the Committee from time to time and revised as necessary.

**8.6 List of Possible Questions.** A non-exclusive list of possible questions has been developed by the Committee for use by Committee members in interviews with Candidates. This list contains questions that may be posed to a Candidate during the course of the interview. The list of possible questions should be reviewed by the Committee from time to time and revised as necessary.

**8.7 Disciplinary Inquiries.** As part of the questionnaire or otherwise, each Candidate shall be required to: (a) disclose to the Committee disciplinary sanctions against the Candidate and investigations of the professional conduct of the Candidate, (b) in the case of a present or former judge, disclose to the Committee complaints for judicial misconduct against the Candidate and investigations of the judicial conduct of an Candidate, to the extent not prohibited under any statute or regulation, (c) authorize the Washington State Bar Association to release and forward, to the maximum permissible extent, all information with reference to the Candidate's disciplinary record (including information relating to complaints and investigations) to the Association or Chairperson of a Committee, and (d) authorize the Washington Commission on Judicial Conduct to release and forward, to the maximum permissible extent, all information with reference to the Candidate's judicial disciplinary record (including information relating to complaints and investigations) to the Association or a Chairperson of the Committee. Wherever possible, the Committee should also request from the Washington State Bar Association (and the Commission on Judicial Conduct, in the case of Candidates who are or have been judges) any information about the Candidates that may be public or otherwise available.

**8.8 Notification to Officers of Names of Candidates.** Where possible, before Candidates are interviewed by the Committee, their names shall be reported confidentially to the members of the Officers of the Association, who shall be invited to communicate information about Candidates to Chairperson or another Committee member designated by a Chairperson. The officers should provide to the Chairperson or another Committee member designated by the Chairperson any information about any Candidate which is believed would assist a Committee in rating the Candidate.

**8.9 Reference Checking and Other Sources of Information.**

**8.9.1 Importance of Checking Reference.** Reference checking is crucial to the Committee's rating function. The Committee should not rely entirely on what it learns from the Candidate directly and should conduct a discrete outside inquiry, including but not limited to contacting references listed by the Candidate in the Candidate's completed Judicial Candidate Evaluation Questionnaire. Any persons questioned should be assured that the source of the information given to a Committee member will be kept strictly confidential. Committee members shall exercise great care in adequately and thoroughly performing the reference checking function.

8.9.2 **Multiple Reference Checkers.** At least two members of a Committee shall be assigned to check references for each Candidate.

8.9.3 **Number of References to be Contacted.** Reasonable efforts shall be made to reach all references listed by a Candidate in the Judicial Candidate Evaluation Questionnaire. Whenever possible the reference checker shall leave a message with the reference that contact was attempted by a member of the Committee along with the reference checker's contact information. Committee members should take great care to ensure that wherever possible an attempt is made to contact the listed references sufficiently in advance of the scheduled interview that contact is reasonably possible. Committee members should be mindful of the necessity to devote adequate attention to the reference checking process sufficiently in advance of the scheduled interview to ensure the adequate and thorough performance of the reference checking function.

8.9.4 **Other Sources of Information.** The Committee need not rely entirely on what it learns from the Candidate or from the references listed by the Candidate in the Judicial Candidate Evaluation Questionnaire. Committee members may contact or review other sources to obtain information about the Candidate, as they deem appropriate, except as may be limited by Section 9.1. Other sources may include but are not limited to contacts with people who have personal knowledge of the Candidate (whether or not listed by the Candidate as references), public records, electronic searches, professional discipline organizations, and judicial evaluation surveys. Any persons contacted should be assured that the source of the information provided by them will be kept strictly confidential.

8.10 **Committee Sessions.** The Committee shall meet on such schedule and for such periods as may be necessary to perform the functions of the Committee as set forth in these Rules and Procedures.

8.11 **Candidate Interviews.**

8.11.1 **Candidates to Be Interviewed.** Each Candidate shall be interviewed by the Committee, except where such interview is not required by these Rules and Procedures. Before or after the interview with the Candidate, the reference checkers for the Candidate shall present to the Committee all information gathered about the Candidate. Other Committee members shall convey to the Committee any additional information that may be of concern to the Committee. During the interview with the Candidate, Committee members may choose to ask questions about information or issues so identified. The interview shall begin with the Candidate being offered an opportunity to make a brief opening statement, and shall conclude with the Candidate being offered the opportunity to make a brief closing statement. After the Candidate is excused, the Committee shall discuss the Candidate in confidence, to be followed by one or more votes under the appropriate rating system. The elements of this interview process shall generally be included in the consideration of all Candidates, although the elements need not occur in any particular order. The Committee may modify the interview and consideration format as may be reasonable or necessary in a particular case.

8.11.2 **Length.** Each interview shall be approximately twenty (20) minutes in length. An interview in excess of thirty (30) minutes shall not be permitted without good

cause.

**8.11.3 Sensitivity to Effect on Candidates.** Members of the Committee should be sensitive to the effect of the interview process on a Candidate. During interviews, Committee members should be sensitive to the impact of questions on a Candidate and the sequence and substance of questions that are asked.

**8.11.4 Efforts to Interview Candidates.** The Committee shall make all reasonable efforts to conduct interviews with Candidates, including, if necessary, interviews outside of normal business hours, interviews conducted by videoconferencing, and the like.

## **9. Rating Criteria, Categories, and Procedures.**

**9.1 Unified Rating System for Candidates.** The ratings categories for candidates for election and applicants for appointment are identical: “Exceptionally Well Qualified,” “Well Qualified,” “Qualified,” and “Not Qualified

### **9.2 Ratings of Candidates.**

**9.2.1 “Qualified.”** A Candidate may be rated “Qualified” if the Candidate has satisfied the basic criteria—consisting of the following factors, which are not listed in any order of priority—to a degree sufficient to consider the Candidate minimally qualified for the judicial position sought:

(a) maturity, integrity, courtesy, intellectual honesty, fairness, good judgment, curiosity, and common sense;

(b) a demonstrated commitment to equal justice under the law, and fairness and open-mindedness with sensitivity to and respect for all persons, regardless of race, color, gender, sexual orientation, national origin, ancestry, religion, political ideology, creed, age, marital status, or physical or mental handicap, disability, or impairment. This commitment and sensitivity can be evidenced by the individual’s involvement in community affairs and activities, professional practice, and personal and professional background;

(c) the courage and ability to make difficult decisions under stress;

(d) the competence, ability, and experience to manage pretrial and trial proceedings, including administrative proceedings, arbitrations, settlement conferences, and commissioner or magistrate responsibilities. It should include an ability to address diverse issues, weigh conflicting testimony, apply the law to the facts, understand the dynamics of the trial or conflict resolution process, and command respect from attorneys, litigants, and other participants in the process;

(e) the ability to work with a wide variety of subject matters;

(f) demonstrated excellence in legal ability and practice;

(g) demonstrated capacity for hard work;

(h) the potential for ongoing professional development and demonstrated

leadership in the profession;

(i) the ability to communicate clearly and effectively, orally and in writing, with all participants in the judicial process and other branches of government;

(j) interest and commitment to Whatcom County with other judges, court administrators, and other branches of government to improve the administration of justice; and

(k) a demeanor conducive to all participants in legal proceedings before the Candidate being treated with fairness and respect, and receiving an opportunity to be heard fairly and without prejudice.

9.2.2 **“Well Qualified.”** A Candidate may be rated “Well Qualified” if the Candidate demonstrates a level of skill, experience, sound judgment, and excellence in his or her professional or judicial career, or both, that will sustain or improve the quality of the bench of the judicial position sought. These Qualifications may be demonstrated by satisfying some or all of the criteria used to support a “Qualified” rating.

9.2.3 **“Exceptionally Well Qualified.”** A Candidate may be rated “Exceptionally Well Qualified” if the Candidate fulfills the requirements necessary for a “Well Qualified” rating and, in addition, demonstrates outstanding accomplishments as reflected by some or all of the following:

(a) singular accomplishments in professional practice, academic training, judicial career, or contributions to the profession;

(b) exceptional litigation, judicial, or administrative experience;

(c) outstanding personal and professional integrity and commitment to fairness in the administration of justice;

(d) significant public service; and

(e) excellence in the criteria which support a “Well Qualified” rating.

9.2.4 **“Not Qualified.”** A Candidate may be rated “Not Qualified” if the Candidate does not demonstrate qualifications sufficient to receive a rating of “Qualified”.

9.2.5 **“Insufficient Information to Rate.”** If a Candidate has been provided with a full and complete opportunity to provide information and, despite that opportunity, the Committee concludes by majority vote that it does not have sufficient information to rate the Candidate, the Committee shall not rate the Candidate and shall place the Candidate in the category “Insufficient Information to Rate.” This rating shall not be used if a Candidate has declined or refused to participate in the rating process.

9.2.6 **“Refused to Cooperate in the Judicial Candidate Evaluation Process.”** If a Candidate has declined or refused to participate in the rating process, the

Committee may by majority vote, subject to paragraph 9.3.8, elect to not rate the Candidate and may place the Candidate in the category “Refused to Cooperate in the Judicial Candidate Evaluation Process.”

### 9.3 **Rating Procedures.**

9.3.1 **Secret Ballot.** All votes by Committee members must be cast by secret ballot.

9.3.2 **Personal Votes Required.** All votes by Committee members must be cast in person at a Committee meeting. Proxies for Committee members and telephone polls of Committee members are not permitted.

9.3.3 **Disqualification from Voting.** No Committee member shall cast a vote if the member is obligated not to participate pursuant to Paragraph 6.6 above.

9.3.4 **Presence Required.** Only Committee members present at a Candidate’s interview may vote on the Candidate’s rating.

9.3.5 **Candidates Not to Be Compared.** In rating Candidates, Candidates shall be evaluated using the standards for each rating category, and shall not be compared against one another. Although it is inevitable that during the course of performing the work of a Committee, Committee members may be inclined to compare and contrast the experience, capabilities, and qualities of Candidates, direct comparisons between Candidates for the same judicial office should be discouraged, and the ratings of Candidates should reflect the application of the ratings standards.

9.3.6 **Consideration of Judicial Evaluation Surveys.** A Committee may consider results of the Association’s bar survey regarding judicial officers in the course of its work as one of many factors. Where reasonably possible and relevant, the most recent published results of the Association’s bar survey regarding judicial officers for any Candidate should be distributed or reported to the Committee.

9.3.7 **Consideration of Prior Ratings.** The Committee may consider a rating previously received by a Candidate as one of many factors. A prior rating should have no necessary effect on the rating of a Candidate.

9.3.8 **Consideration of Lack of Participation.** The Committee may consider the level, or the lack, of participation by a Candidate in the rating process as one of many factors in rating a Candidate. Even if a Candidate has refused or declined to participate in the rating process, the Committee shall rate a Candidate if the Committee concludes by majority vote that it has adequate information to credibly evaluate the Candidate using the rating standards set forth in these Rules and Procedures. The Committee should make reasonable efforts to obtain adequate information to credibly evaluate the Candidate; provided, however, that such efforts shall not relieve the Candidate of his or her obligation to provide timely all information relevant to the rating process. Such information may include but is not limited to contacts with people who have personal knowledge of the Candidate (whether or not listed by the Candidate as references), public records, electronic searches, professional discipline organizations, and judicial evaluation

surveys. Any persons contacted should be assured that the source of the information provided by them will be kept strictly confidential.

**9.3.9 Consideration of Matters Not Proved.** In the course of the work of the Committee, the Committee may be confronted with a variety of allegations about Candidates that the Committee is not equipped to either prove or disprove. Such allegations may come to the Committee second or third hand or from sources who wish not to be identified. The Committee, guided by the Chairperson, shall exercise its judgment and discretion in dealing with such allegations in a manner appropriate under the circumstances, with due regard given to the sources of the information, the presence or lack of support for the allegations, the nature of the judicial position to be filled, other information derived from or about the Candidate, the response, if any, of the Candidate to direct or indirect questions posed by Committee members, and considerations of due process and fundamental fairness. The Committee should not dwell on any particular subject, including allegations which may be difficult to prove, during the interview. A Candidate should be given adequate time during the interview to address other issues.

**9.3.10 Authority to Table or Continue Process.** If a majority of the Committee determines that the Committee does not have adequate information to credibly evaluate and rate a Candidate, the rating process, including the interview and vote, may be tabled or continued. The decision to table or continue the rating process after consideration of any relevant timing concerns and the requirement in these Rules and Procedures that only members present for a Candidate's interview may vote on the Candidate's rating, if an interview is required.

**9.3.11 Reconsideration During Committee Session.** By majority vote, the Committee may reconsider a vote taken during the day of the Committee session. A motion to reconsider may be made by any Committee member, but the Committee shall consider only one motion per candidate. If a motion to reconsider is voted on and fails, the vote that it proposed to reconsider remains in full force. If a motion to reconsider is voted on and adopted, the effect is to immediately place before the Committee again the question on which the vote is to be reconsidered, in the exact position it occupied the moment before it was voted on originally. As is always the case under these Rules and Procedures, only members present at a Candidate's interview may vote on the Candidate's rating, and the other rules governing Candidate ratings remain in effect, including Section 9.3.5 ("Candidates Not to be Compared"). There shall exist no requirement that all persons participating or voting in the rating being reconsidered participate and vote on reconsideration.

**9.3.12 Candidate's Right to Seek Reconsideration of a Rating.** The Chairperson shall timely, preferably the same day as the vote, inform the Candidate of the rating issued by the Committee. This initial notification shall be provided by email or other form of electronic communication. The Candidate shall have 72 hours from the time the Chairperson sends such notification to inform the Chairperson in writing (including by email) of the Candidate's desire to seek reconsideration of the rating. If the Candidate does not so inform the Chairperson, then the rating will become final and will be disseminated pursuant to these Rules and Procedures; provided, however, that no rating shall be publicly released or provided to an appointing body prior to the expiration of the 72 hour window for a

Candidate to seek reconsideration. If the Candidate informs the Chairperson of the Candidate’s desire to seek reconsideration, the Candidate must submit the complete package of material supporting the Candidate’s request for reconsideration to the Chairperson within five business days of so informing the Chairperson. If the Candidate informs the Chairperson of the Candidate’s desire to seek reconsideration, the Committee shall not disseminate the Candidate’s ratings while it is being determined, pursuant to Section 9.3.13, whether reconsideration is warranted.

**9.3.13 Authority to Reconsider Under Extraordinary Circumstances.** If it appears to a majority of the Committee that significant new and previously undisclosed information, whether provided by the Candidate or others, was not considered by the Committee when it rated a Candidate and subjects the appropriateness of the rating to serious question the Committee may reconsider the rating, suspend the rating and prohibit its use pending reconsideration. The procedure on reconsideration shall be the same as the procedure on initial consideration. The issuance of a reconsidered rating, if different from the prior rating, will supersede and make ineffective the prior rating, and use of the prior rating shall be prohibited. Reconsideration of a rating or suspension of a rating under this paragraph should occur only under extraordinary circumstances.

**9.3.14 Notification Provided to the President of Each “Not Qualified” Rating.** For each Candidate rated “Not Qualified” by the Committee, concurrently with notifying the Candidate of the rating issued by the Committee, the Chairperson shall inform the President of the Association of the rating.

**9.3.15 Effect and Duration of Rating—Three years.** Except as specifically set forth in these Rules and Procedures, a Candidate’s rating shall be for a particular level of the judicial system and shall remain effective for any positions at that same level (and on the “appointment” list in the case of applicants for appointment) for a period of three years from the date it is issued, unless the Chairperson or the President of the Association determines that the rating should be reconsidered. A Candidate with a rating in effect shall have a right to be interviewed again by the Committee only if seeking appointment or election to a different level of the judicial system. Notwithstanding the foregoing, a Candidate who receives a rating of “Not Qualified” may seek to be rated after one year of receiving the rating, irrespective of whether the Candidate is seeking election to the same or different level of the judicial system.

**9.3.16 Votes Required.** To obtain a rating of “Qualified,” a Candidate must receive an affirmative vote of a majority of the Committee members present. To obtain a rating of “Well Qualified” or “Exceptionally Well Qualified,” a Candidate must receive the affirmative vote of two-thirds (2/3) of the Committee members present, as follows:



The voting on the rating of a Candidate shall begin with the “Qualified” rating. If the Candidate receives the required number of votes for the “Qualified” rating, voting shall proceed through the “Well Qualified” and “Exceptionally Well Qualified” ratings as long as the Candidate continues to receive the required number of votes to be rated in the category. The Candidate shall receive the highest rating for which the Candidate received the required number of votes to be rated. If the Candidate did not receive the required number of votes to receive the “Qualified” rating, the Committee shall rate the Candidate “Not Qualified”; provided, however, that in lieu of rating a Candidate, the Committee by majority vote shall have the authority to place a Candidate in the Categories “Insufficient Information to Rate” or “Refused to Cooperate in Judicial Candidate Evaluation Process.”

**9.3.17 Sufficiency of Information.** A Candidate’s lack of willingness or availability to fill out the judicial screening questionnaire, be interviewed by the Committee, or otherwise participate in the rating process shall not preclude the Committee from rating the Candidate, so long as the Committee concludes by a majority vote that it has adequate information to enable it to do so pursuant to paragraph 9.3.8. The explanatory materials provided to the Candidate shall communicate to the Candidate that a failure to submit the questionnaire, be interviewed by the Committee or otherwise participate in the rating process will not preclude the Committee from rating the Candidate.

**9.3.18 Ratings Not to Be Modified.** The officers of the Association shall have no authority to modify the Committee’s ratings of Candidates.

**10. Notification of Ratings.**

**10.1 No Rationale for Votes to Be Provided.** The rating process employed by the Committee is necessarily a subjective one, and individual Committee members may have different reasons for voting in a particular way with respect to Candidates. With respect to some Candidates, there may be one or more reasons justifying a particular rating that can be clearly articulated. In many cases, however, the reasons justifying a Candidate’s rating are many in number or cannot be clearly articulated on behalf of all Committee members, and the rating process does not require that Committee members disclose their votes or rationale for those votes. For these reasons and to preserve the confidentiality of the rating process, no disclosure is to be made of the votes taken by the Committee or the substance of discussions by the Committee.



**10.2 Additional Information May Be Provided Regarding Ratings of “Not Qualified” in Exceptional Circumstances.** If the Committee by two-thirds vote determines that exceptional circumstances exist to disclose additional information regarding a Candidate rated “Not Qualified” and directs the Chairperson to provide additional information to the Officers in executive session, then that additional information, or portions thereof, may be disclosed publicly if and as authorized by a majority vote of the Board and if confidentiality of sources is not jeopardized.

### **10.3 Manner of Notification.**

**10.3.1 Notification of Media and the Public.** The Committee shall complete the process of evaluating and rating Candidates in elections so that the President of the Association or the President’s designee shall, subject to the limitation of Sections 9.3.12 and 9.3.13, release the rating or other action taken by the Committee to the public as soon as feasible after the rating is completed. Announcements of election ratings by press release(s), press conference(s), and/or other means by the WCBA President and the Committee Chairperson or their designees shall include a description of the combined litigation experience and diversity of the Committee’s membership, of the four-part process followed (questionnaire, other information/reference checks, interview, and deliberation), of the written criteria applied (Rules and Procedures) and of the public availability of most of the completed questionnaire information.

**10.3.2. Notification of Candidates for Election.** Subject to Sections 9.3.12 and 9.3.13, the President of the Association or the President’s designee(s) shall make reasonable efforts to provide each Candidate who is seeking an elected office and who has been considered by the Committee with a copy of the news release containing the results of the Committee’s work, prior to making such news public.

**11. Inquiries from Candidates.** Committee Members shall refer inquiries from Candidates regarding the rating process and/or rating received by the Candidate to the Chairperson. Except as otherwise required under these Rules and Procedures, the Chairperson will, at their discretion, inform the President of the Association of inquiries from Candidates (whether received directly from the Candidate or indirectly through a Committee member).

**12. Amendments to Rules and Procedures.** Amendments to these Rules and Procedures may be proposed by any member of the Association, or in the event of the approval by two-thirds of the Committee, by the Committee. All proposed amendments shall be presented to the members of the Association at a regularly scheduled meeting of the Association and may be approved by a majority vote of the members of the Association at the first regularly scheduled meeting of the Association following the monthly meeting at which a proposed amendment was initially presented.

End of Rules