

# **National Bar Association**

## **POLICIES AND PROCEDURES GOVERNING JUDICIAL ENDORSEMENTS**

### **I. CRITERIA FOR ENDORSEMENT**

At the 2004 Annual Convention of the National Bar Association the following standard (in Section I of this document) was approved governing the evaluation of candidates for Article III (federal) judgeships and Federal magistrates:

“The NBA has established a process for evaluating judicial applicants and nominees and has established criteria. The NBA takes a position on a judge only after a complete and exhaustive evaluation of the nominee’s record. All potential judges would be evaluated consistent with this process and these criteria. The NBA reviews the potential judge’s entire record, including her or his professional and educational background and the available records of his or her years as a lawyer. Impressive educational credentials and distinguished employment history, alone, are not sufficient to qualify a lawyer or a judge to become a NBA-endorsed jurist.

The record must evidence a manifest commitment- through judicial philosophy, words and works/deeds-to civil rights and personal liberties. Hence, our standard examines not only the professional qualification of judicial nominees and applicants; but also scrutinizing whether the proposed jurist has the ability to judge fairly, to conduct matters with judicial temperance, and to advance and seek equal justice under the law. This NBA standard challenges unconstitutional and illegal discrimination on the basis of race, gender and class. Moreover, our standard is vital to ensuring that groups that have been historically marginalized by the legal system obtain the American mandate of equal justice under law.”

### **II. PROCEDURES FOR PERSON SEEKING FEDERAL JUDICIAL ENDORSEMENTS**

Persons seeking an endorsement must comply with the following procedures:

- A. Inform the NBA Judicial Selection Committee (“the Committee) of his/her desire to obtain the NBA’s endorsement. A copy of these Policies and Procedures can be found on the NBA Website at [www.nationalbar.org](http://www.nationalbar.org).
- B. The nominee provides the following information to the Committee with a copy to the NBA National President and the NBA Executive Director:
  1. A letter formally requesting the NBA endorsement and stating the title of the judicial position being sought;
  2. The statutory requirements for the judgeship being sought, the vacancy announcement and reflecting the requirements of the judgeship, and/or other

materials reflecting the responsibilities, authority and requirements of the position;

3. Date by which the endorsement for the appointment must be received in order to be considered;
4. Name, title and address of the person to whom the endorsement letter should be sent;
5. The nominee's resume, a list of references ( three or more persons), and other materials relevant to the nominee's qualifications; and
6. The completed U.S. Senate or the Department of Justice Questionnaire.
7. The NBA Questionnaire.

### **III. DUE DILIGENCE ON FEDERAL JUDICIAL NOMINEES**

After receipt of the information specified in Section II above, the Committee will conduct a due diligence investigation. A due diligence investigation may include: (i) a review of the nominee's professional background; (ii) a review of the nominee's significant legal cases (if applicable); (iii) contacting those who know the nominee, including former employers, co-counsels, and opposing counsel; (iv) a review of the nominee's writings; (v) a media and internet search of the nominee; (vi) an interview of the nominee; and (vii) requesting input from NBA affiliates, other organizations located in the NBA Region where the nominee resides or has resided. After conducting said investigation, the Committee will formulate a recommendation that will be submitted to the NBA Board of Governors.

### **IV. EXPEDITED ENDORSEMENT OF FEDERAL JUDICIAL NOMINEES**

An expedited proceeding for federal endorsements will only occur when the urgency of the situation does not allow for a decision to be made at a regularly scheduled meeting. The following rules and procedures govern expedited endorsements:

- A. The decision on whether to endorse a nominee will be made by the NBA Executive Committee.

- B. The vote of the NBA Executive Committee must be a 2/3 vote regarding the nominee's request for endorsement.
- C. The NBA President will provide the nominee with written notification of the NBA's decision and, if applicable, with a copy of the letter of endorsement. The decision of the NBA will be conveyed to appropriate officials in the Executive and Legislative branches of the federal government.

## **V. CONFIDENTIALITY**

All information (including but not limited to documents, nominee and third-party interview statements and notes) submitted to or obtained by the NBA in connection with the consideration of an endorsement will be held in strict confidence. The NBA will not disclose any information or materials related to any endorsement review to anyone who is not an NBA officer, board member, or Committee member without notifying the nominee of the request for disclosure and requesting the nominee's written consent. All NBA officers, board members and committee members who receive information related to endorsement requests and evaluations are required to sign confidentiality agreements.

## **VI. THE UNITED STATES SUPREME COURT AND COURTS OF APPEALS**

Because of the significance and the unique nature of the U.S. Supreme Court and the Courts of Appeals, the NBA Board of Governors in consultation with the NBA Judicial Selection Committee will develop on a proactive basis a pool of candidates deemed eligible to receive the endorsement of the NBA for appointment to a seat on the Supreme Court or the Courts of Appeals.