

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2018

In the Matter of the)
Amendments to the)
Rules of the Judicial)
Nominating Commission)

**ORDER AMENDING THE RULES OF THE
JUDICIAL NOMINATING COMMISSION**

The Judicial Nominating Commission has recommended that the Wyoming Supreme Court amend the Rules of the Judicial Nominating Commission. The Court notes that many of the proposed amendments are based on the Model Code of Conduct for Judicial Nominating Commissioners, which was promulgated by the Institute for the Advancement of the American Legal System. The Court, having carefully reviewed the proposed amendments, finds that the proposed amendments should be adopted. It is, therefore,

ORDERED that the amendments to the Rules of the Judicial Nominating Commission, attached hereto, be, and hereby are, adopted by the Court to be effective immediately; and it is further

ORDERED that this order and the attached amendments be published in the advance sheets of the Pacific Reporter; the attached amendments be published in the Wyoming Court Rules Volume; and this order and the attached amendments be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments shall also be recorded in the journal of this Court.

DATED this 5th day of February, 2019.

BY THE COURT:

/s/

MICHAEL K. DAVIS
Chief Justice

Rules of the Judicial Nominating Commission

Rule 1. Commission Meetings.

The judicial nominating commission shall act only at a meeting and may act only by the concurrence of a majority of its members. Meetings may be conducted telephonically.

Rule 2. Notice of Commission Meetings.

(a) Meetings of the commission may be called by the chairman or by a majority of the members by written, electronic, telephonic, or oral notice to the other members specifying the time and place of meeting. Such notice shall be sent at least five days before the time specified, except that such notice requirement may be waived by the concurrence of a majority of the members of the commission. The place of meeting, unless otherwise specified, shall be the courtroom of the Supreme Court in Cheyenne. Notice of meeting may be waived by any member or members either before or after the meeting takes place, and attendance at a meeting by any member shall constitute a waiver of notice by such member unless he or she shall, at or promptly after the beginning of the meeting, object to the holding of the meeting on the ground of lack of or insufficiency of notice.

(b) Meetings of the commission may be held without notice at any time or place whenever the meeting is one as to which notice is waived by all members or whenever the commission at a previous meeting shall have designated the time and place for such meeting.

Rule 3. Chairman of Commission and Contact with Applicants.

The chairman shall preside at any meeting at which he or she is present, and shall be either the chief justice or a justice of the Supreme Court designated by the chief justice to act as chairman. Commission staff, the chairman or the chairman's designee shall conduct all communications with an applicant about the application or the process. Except as required to conduct due diligence, individual commission members shall avoid substantive communication with applicants from the time the application is submitted until

completion of the final vote on the nomination. No commission member shall act as a reference for any applicant.

Rule 4. Confidentiality.

Completed expressions of interest forms, reference letters, information from the Wyoming State Bar and the Commission on Judicial Conduct and Ethics, and the deliberations of the commission, are confidential in nature and shall not be publicly disclosed. Neither commission members nor commission staff shall discuss or disclose, except among themselves, any matters or materials classified as confidential under these rules. This mandate of confidentiality survives the commissioners' terms of office and must be observed in perpetuity. The commission, at its discretion, may release the names of those attorneys expressing interest in the judicial vacancy and the names of the commission's three nominees.

Rule 5. Public Trust and Impartiality.

Members of the commission hold positions of public trust. Commission members shall conduct themselves in a manner that reflects positively upon the judicial selection process and shall avoid partisanship or partiality in the consideration of applicants. Commission members shall not be influenced other than by facts or opinion relevant to the judicial qualifications of applicants. No commission member or immediate family of a commission member shall accept a gift or anything of value from or on behalf of any applicant. Commission members shall display courtesy and respect to all applicants and those commenting on applicants, as well as to other commission members.

Commission members shall not discuss the applicants with the governor before the commission meets to screen and nominate applicants and shall only communicate with the governor after the nominations are submitted as set forth specifically in Rule 14.

Rule 6. Public Role.

Commission members are permitted, and encouraged, to communicate with the public regarding the commission's role in the judicial selection process, in accordance with these rules.

Rule 7. Attendance and Preparation.

Commission members shall attend all commission meetings unless excused by the chairman for good cause. Commission members shall complete all necessary preparation for each meeting.

Rule 8. Disclosure of Conflicts of Interest.

At any commission meeting where the qualifications of judicial applicants will be considered, commission members shall disclose to the commission any current or past relationship with an applicant (e.g., business, professional, employment, personal, political). Commission members also shall disclose any other possible cause for conflict of interest, bias or prejudice. A commission member should consider recusing himself or herself from voting on a judicial applicant if his or her ability to impartially and objectively consider the applicant's merits could reasonably be questioned.

Rule 9. Disqualification of Elected Officials and Political Party Officers.

No member of the commission excepting the chairman shall hold any federal, state or county public office or any political party office, and after serving a full term he or she shall not be eligible for reelection or reappointment to succeed himself or herself on the commission. No member of the judicial nominating commission shall be eligible for appointment to any judicial office while he or she is a member of the commission nor for a period of one year after the expiration of his or her term for which he or she was elected or appointed. Vacancies in the office of commissioner shall be filled for the unexpired terms in the same manner as the original appointments. Additional qualifications of members of the commission may be prescribed by law.

Rule 10. No Discrimination.

Commission members shall consider each applicant in an impartial and objective manner. In considering each applicant, a commission member shall not discriminate on any basis prohibited by law.

Rule 11. Communications Regarding Applicants.

Each commission member shall disclose information regarding the qualifications of any applicant so long as the commission member believes it is reliable and relevant to the consideration of the applicant. Such information conveyed in written communications with the commission member shall be forwarded to all other commission members; oral communications regarding such matters shall be shared orally with all other members.

Rule 12 5. Commission Action on Known Future Vacancy.

When it is known that a vacancy will occur at a date certain, within sixty days, the commission may make its nominations and submit to the governor the names of the persons nominated before the occurrence of the vacancy. It is the purpose of this rule to facilitate the administration of justice by preventing delay in filling court vacancies so that all courts may have all judges ready to dispose of their judicial business as soon as may be possible.

Rule 13 6. Commission Consideration of Nominees.

The commission shall not limit its consideration to persons who have been suggested by others or to persons who have indicated their willingness to serve. It shall be in order for the commission to tender nomination to one or more qualified persons, prior to and subject to the formal action by the commission in making nominations, in order to ascertain whether such a person will agree to serve if nominated. In acting pursuant to this rule, no commission member shall commit in advance to vote for any applicant and shall make clear that no commitment or support for nomination is implied. A commission member shall disclose to the commission that the member has encouraged an applicant to apply when that applicant is first considered by the commission.

Rule 14 7. Commission Nominations.

The action of the commission in making nominations with respect to any vacancy shall be taken only at a meeting and only by the execution of a certificate of nomination, which shall be in the form of a communication to the governor, setting forth the nominations thereby made, signed on behalf of the commission by the chairman. The

names of the potential nominees shall be submitted in alphabetical order, with no indication as to preference by the commission. After certification of a list of nominees to the governor, no commission member shall contact the governor or any member of the governor's office or staff for the purpose of further influencing the governor's decision. However, if contacted by the governor or a member of the governor's office or staff, commission members may discuss their own views about the qualifications of a nominee.

Rule 15. Notice to Nominees and Unsuccessful Applicants.

The commission chairman or acting chairman (if applicable) shall promptly communicate the commission's decision to nominees and those not selected for nomination by such means as he or she may deem advisable.

Rule 8. Declarations of Intent.

~~—A justice or judge desiring to retain his judicial office for a succeeding term shall file with the secretary of state not more than six months nor less than three months before the general election to be held before the expiration of his existing term of office a declaration of intent to stand for retention for a succeeding term.~~