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CODE OF VERMONT RULES
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*** This document reflects changes current through January 10, 2014 ***

AGENCY 90. JUDICIARY
SUB-AGENCY 800. JUDICIAL NOMINATING BOARD
CHAPTER 001. BOARD RULES

CVR 90-800-001 (2014)

90 800 001. Board Rules

RULE 1. Applicability

These rules shall govern the procedure for the Judicial Nominating Board.

RULE 2. Board Chair and Vice-Chair

The board shall elect from among its members a Chair and Vice-Chair to serve for a term of two years or until the expiration of his/her term on the Board, whichever occurs first. The Chair, if present; or the Vice-Chair in his/her absence shall preside at any meeting of the Board. In their absence, the Board shall choose a member of the Board to act as chair.

RULE 3. Board Secretary

The Board shall choose one of its members as secretary. It shall be the duty of the secretary to prepare and keep the minutes of all meetings. In the secretary's absence the Board shall choose a member to be acting secretary.

RULE 4. Notice of Judicial Vacancy

Upon receipt by the Board of a notice of a vacancy from the Governor, the Chair shall request the Vermont Supreme Court to send a "Notice of Judicial Vacancy" in the form shown in Form 1 to such newspapers as the Board shall from time to time determine and to all the members of the Vermont State Bar.

RULE 5. Board Members

(a) A Board member shall consider each candidate for a judicial office in an impartial, objective manner. A Board member shall not consider the race, religion, or sex of a candidate. Political affiliation of a candidate shall not be considered unless required by law.

(b) If a Board member knows of any personal or business relationship which he/she has with a candidate and the relationship may influence, or appear to influence, the decision of the Board member as to this candidate the Board member shall report this fact to the Chair. Such report shall

be included within the minutes or otherwise in writing made a part of the proceedings of the Board. If a majority of the Board determines that such a relationship may unduly influence the Board member's decision as to this candidate, the Board member shall not vote upon the candidate and this fact shall be noted in the records of the Board relating to the candidate.

(c) All communications between Board members, between a Board member and a candidate, or between a Board member and any other person or organization with respect to the judicial qualifications of a candidate shall be kept confidential and discussed only among board members. Further, the identify of candidates for appointment shall be kept confidential except in communications to the Governor. This shall not preclude any Board member from making inquiry as to the reputation of any judicial candidate as long as such communication is investigational in nature. In any such communication, the Board member should be careful not to suggest his/her personal opinion nor that of any other member of the Board.

RULE 6. Board Meetings

(a) Meetings of the Board may be called by the Chair or by a majority of the members by written notice to the other members specifying the time and place of meeting. Such notice shall be mailed or sent at least seven (7) days before the time specified, except that a meeting may be held on shorter notice if the notice specifies that such meeting is required. The place and time of such meeting will be specified in the notice. Notice of meeting may be waived by any Board member 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/she shall, at or promptly after the beginning of the meeting, object to the holding of the meeting on the ground or lack of, or insufficiency of, notice.

(b) Meetings of the Board 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 Board at a previous meeting shall have designated the time and place for such a meeting.

(c) The Chair shall call at least one meeting each year for the principal purpose of reviewing Board operating procedures and briefing new Board members on the rules of procedure of the Board.

(d) A quorum of the Board shall be eight (8) Board members. The Board shall act by majority vote of Board members present. It may interview through a subcommittee of three or more.

RULE 7. Recruitment of Candidates

Board members may actively seek out and encourage qualified individuals to apply for judicial office. Board members should always keep in mind that often the person with the highest qualifications will not actively seek judicial appointment. Thus Board members ought to seek out well-qualified persons and to encourage them to agree to accept nomination even if a Board member is so intimately acquainted with such a person that the Board member may ultimately be unable to vote (pursuant to Rule 5b) for this person's nomination. No Board member should ever indicate to a prospective candidate that he/she is likely to receive approval by the Board or in any way commit either themselves or the Board to voting in favor of that candidate at a future time. Any candidate should be specifically informed that he/she cannot be guaranteed approval by the Board.

RULE 8. Preliminary Screening of Candidates

As part of the preliminary background investigation, each candidate will be required to fill out the Board's questionnaire entitled "Questionnaire for Candidates for Judicial Office" (Form 2) and such waivers and authorizations as the Board from time to time may require. Further screening may be performed by the Board on those candidates who may come from portions of the State of Vermont not represented on the Judicial Nominating Board. Such information shall be solely for the purpose

of compiling background information and inquiry shall only be made at the specific direction of and in a manner approved by the Board.

RULE 9. Investigation of Candidates

(a) Any Board member may make inquiry so as to determine the general reputation of any candidate. Such information shall be confidential and confidentiality shall be maintained relative to it. All such information shall be identified to the Board together with the identity of those individuals making such information available. The information shall be limited to inquiries as to the trial experience, general reputation, qualifications and other qualities which the Legislature may establish as criteria for the selection of candidates.

(b) The Board shall submit to the Court Administrator a list of all the candidates. The Court Administrator shall disclose to the Board information about professional disciplinary action taken or pending concerning any candidate.

RULE 10. Interview

(a) All candidates for judicial position shall be interviewed.

(b) When the number of candidates for non-judicial position makes such an interview process not feasible in the opinion of the Chair, he/she may establish a preliminary screening of the various applications and make determination as to those who shall be interviewed by subcommittee or such committee as the Board might adopt. In such event, any Board member may cause any candidate to be interviewed by requesting the same of the Chair. The interviews shall be in person and conducted in a dignified and confidential atmosphere.

RULE 11. Selection Criteria

(a) To be eligible for appointment to a judicial position a person shall be an attorney at law who has been engaged in the practice of law or a judge in the state of Vermont for a period of at least five out of the ten years preceding his or her appointment.

(b) In evaluating candidates, the Board members shall use criteria and standards for nomination including but not limited to such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness and public service.

(c) With respect to a candidate for superior or district judge, particular consideration shall be given to the nature and extent of his or her trial practice.

RULE 12. Selection of Nominees

(a) When all relevant background information on each candidate has been compiled and the candidates have been interviewed by the Board members or a subcommittee of the Board, the Board shall meet for the purpose of selecting nominees to be sent to the Governor.

(b) Before proceeding to a vote on the candidates, the Chair shall read the names of the candidates in alphabetical order. Thereafter, the Chair shall open the meeting to a discussion of each particular candidate's qualifications for judicial office. After this procedure has been followed for each candidate, the Chair shall open the meeting to a general discussion of the relative qualifications of all candidates.

(c) Upon completion of the discussion of the candidates' qualifications, the Board shall vote by secret ballot.

RULE 13. Transmittal to the Governor

The names of the nominees, together with their questionnaires, shall be hand-delivered to the Governor or mailed to his/her personal attention. The names shall be listed in alphabetical order.

RULES 14. Rule Amendment

Proposals to amend these rules shall be made by a majority of the total Board members acting at a regular or special meeting duly warned for that purpose setting forth the proposed amendment, and shall be adopted pursuant to 4 V.S.A. § 601(b) and 3 V.S.A. Chapter 25.

MEMORANDUM

TO: Members of the Bar of the Vermont Supreme Court

FROM: Philip H. Hoff, Vice-Chairman

Judicial Nominating Board

RE: Information Concerning Judicial Vacancy

DATE: January 30, 1987

The Honorable William C. Hill, Associate Justice of the Vermont Supreme Court, has announced his plans to retire effective April 1, 1987. Information relating to this vacancy is listed below.

Any individual interested in applying for this vacancy should obtain an application questionnaire from me at Post Office Box 567, Burlington, Vermont 05402. This questionnaire must be filed with me on or before February 27, 1987.

If you do not have an interest in the vacancy yourself but know of some other individual whom you believe to be qualified, please encourage him or her to apply.

ASSOCIATE JUSTICE

- 1) 4 V.S.A. § 602(b) sets forth the general qualifications required of candidates for Associate Justice. See also, Vt. Const. ch. II, § 35.
- 2) The appointment will be for a term which expires on March 31, 1993. Thereafter the Associate Justice may be a candidate for retention and a six-year term. Vt. Const. ch. II, §§ 33, 34; 4 V.S.A. §§ 4, 5, 607, 608.
- 3) The salary of an Associate Justice is \$ 55,325.00. 32 V.S.A. § 1003(c).
- 4) The procedures for selection and appointment of an Associate Justice are set forth at Vt. Const. ch. II, §§ 32-35 and 4 V.S.A. §§ 601-603.
- 5) Associate Justices are subject to the disciplinary and administrative authority of the Supreme Court. Vt. Const. ch. II, §§ 30, 36, 37; 4 V.S.A. §§ 3, 6; Rules of Supreme Court for Disciplinary Control of Judges; and Code of Judicial Conduct.

QUESTIONNAIRE FOR CANDIDATES

FOR JUDICIAL OFFICE

DATE: ____

Judicial Candidates Questionnaire for ___ Judgeship

GENERAL:

1. Name: ___

2. Residential address: ___

Since: ___

City ___ State ___

Zip Code ___

Telephone: ___

3. Business address: ___

City ___ State ___

Telephone: ___

4. Place of birth: ___

Date of birth: ___

5. Length of residence in State of Vermont: ___

6. Marital status: ___ Date of Marriage: ___

If divorced, are you paying child support? ___

7. Spouse's name: ___

8. Children: ___

Names

Ages

(Please attach additional pages as needed to fully respond to questions.)

Judicial Nominating Board Form 2

9. Military Service:

Service Branch Dates

**Rank or Rate Type of
of Discharge Discharge**

If still a reserve or national guard member, please give service, branch, unit and present rank: ____

HEALTH:

10. What is present state of your physical or mental health? ____

11. Do you have any impairment of eyesight, hearing, alcoholism, drug addiction, or other physical handicap or disease? ____

12. Have you had any hospital confinement, or serious physical or mental illness during the past five years? Yes ____ No ____ . If yes, explain and identify your attending physician, the name(s) of any hospital or other institution to which you were admitted and the date(s) of your hospitalization.

EDUCATION:

13.	Secondary schools, colleges and law schools attended	Date of Attendance	Degrees Received
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Did you complete course? If not, why not? ____

Honors, if any: ____

PROFESSIONAL ADMISSIONS:

14. List all courts (including state bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the date of admission in each case:

Court or Administrative Body	Date of Admission
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

EMPLOYMENT HISTORY:

15. State the names, dates and addresses for all firms with which you have been associated in practice, governmental agencies or private business organizations by which you have been employed, periods you have practiced as a sole practitioner, and other prior employment:

Position	Name of Firm	Address	Dates
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

LAW PRACTICE:

16. a) Describe the general nature of your current practice including any legal specialties which you possess; additionally, if your practice is substantially different now than previously, please give details of prior practice: ____

16. b) During the last five years, what percentage of your practice has been trial practice? ____%

How frequently have you appeared at administrative hearings? ____ times per month.

How frequently have you appeared in Court? ____ times per month.

What percentage of your practice involving litigation has been civil? ____%

What percentage of your practice involving litigation has been criminal? ____%

How many (number) of the above cases have you tried to conclusion? Jury? ____ Non Jury? ____ Arbitration? ____

For each of the following categories please state the number of cases you have tried to conclusion in courts of record during each of the past five years, indicating whether you were sole, associate or chief counsel. Give citations for the 3 most recent reported cases.

Tort - ____

Contract - ____

Divorce - Contested: ____ Uncontested: ____

Foreclosure - ____

Equity - ____

Miscellaneous - ____

16. c) What percentage of your time in courts in the last five years was in:

- | | |
|---|-------|
| 1) Federal Courts? | ____% |
| 2) Superior Courts? | ____% |
| 3) Probate Courts? | ____% |
| 4) District Courts? | ____% |
| 5) Other Courts or Administrative Bodies? | ____% |

16. d) Summarize your courtroom experience prior to the last five years.

PRIOR JUDICIAL EXPERIENCE:

17. a) Have you ever held judicial office or been a candidate for judicial office? If so, please state the courts involved and the dates of service, or dates of candidacy: ____

17. b) Prior Quasi-judicial service: Name of Agency ____; Position held ____ Hearing on what issues ____; Number of cases adjudicated ____.

BUSINESS INVOLVEMENT:

18. a) If you are now an officer, director or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office: ____

18. b) Since being admitted to the Bar, have you ever been engaged in any occupation, business or profession other than the practice of law? If so, please give the details, including dates: ____

18. c) State whether during the past five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise, institution, organization or association of any kind. If so, identify the source of such compensation, the nature of the business enterprise, institution, organization or association involved, and the dates such compensation was paid. ____

19. Have you ever been arrested, charged, or held by federal, state or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations for which a fine of \$ 50 or less was imposed unless it also included a jail sentence. ____

20. a) Have you ever been sued by a client? If so, please give particulars and disposition. ____

20. b) Have you or your professional liability insurance carrier ever settled a claim against you for professional malpractice? If so, please give particulars, including the amounts involved. ____

21. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group? If so, please give the particulars.

22. Have you filed all past tax returns as required by Federal, State, Local and other Government authorities? Yes ____ No ____.

If No, please explain. ____

Have you ever paid a tax penalty? Yes ____ No ____ . If so, what?

HONORS:

23. If you have published any books or articles, please list them giving citations and dates: ____

24. List any honors, prizes or awards you have received:

PROFESSIONAL AND OTHER ACTIVITIES:

25. a) Please list all bar associations and professional societies of which you are a member and give

the titles and dates of any office which you may have held in such groups, and committees to which you belonged:

25. b) Please list all organizations, other than those identified in response to Question No. 28 a), of which you have been a member during the past ten years, including the titles and dates of any offices which you have held in each such organization. _____

SUPPLEMENTAL INFORMATION:

26. Please state any additional education or other experience which you believe would assist you in holding judicial office: _____

27. In the following space please enter the particular potential contribution your selection would bring to this position: _____

WAIVER

I hereby waive my right to privacy as it relates to the Judicial Nominating Board of any information I have provided herein, with the understanding that any information will be held in confidence by the Board. I hereby authorize the custodian of any records or information which deal with any such information to permit the examination or receipt of such information whether written or oral, by the Judicial Nominating Board.

Date: _____

_____ Signature of Candidate

AFFIDAVIT

_____, being first duly sworn deposes and says that the information in this questionnaire is true.

_____ Signature of Candidate

Sworn to before me and subscribed in my presence this _____ day of _____, _____.

_____ Notary Public Statutory Authority: 4 V.S.A. § 601(b)

Effective Date: May 1987 (Secretary of State Rule Log # 87-15)

AMENDED: August 2001 (Not an Amendment - Replace Corrected Pages)

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