GUIDELINES FOR THE COMMISSION ON JUDICIAL APPOINTMENTS

Adopted effective May 18, 1999; amended effective July 1, 2005, March 1, 2006, and November 19, 2007

Guideline 1. Definitions; commission headquarters

(a) [Definition] "Nomination" and "nominee" also refer to appointments and appointees, as described in article VI, section 16(d), of the California Constitution.

(b) [Definition] "Court days" refer to days on which the California courts are open for official business. Normally, Mondays through Fridays are counted as court days, except for judicial holidays.

(c) [Commission headquarters] The headquarters and mailing address of the Commission on Judicial Appointments (commission) are:

Commission on Judicial Appointments
c/o Chief Justice of California
Supreme Court of California
350 McAllister Street
San Francisco, California 94102
Attention: The Secretary to the Commission

The commission's facsimile transmission (fax) number is (415) 865-7181, and its telephone number is (415) 865-7060.

Adopted effective May 18, 1999; amended effective March 1, 2006.

Guideline 2. Commission membership (Cal. Const., art. VI, § 7)

The commission consists of the Chief Justice of California, the Attorney General, and the presiding justice of the Court of Appeal of the affected district or, if there are two or more presiding justices, the one who has presided longest or, for a nomination to the Supreme Court, the presiding justice who has presided longest as a presiding justice on any Court of Appeal.

Adopted effective May 18, 1999; amended effective March 1, 2006.

Guideline 3. Commission chairperson

(a) [Chairperson] The Chief Justice (or Acting Chief Justice) shall serve as chairperson of the commission.

(b) [Powers] The chairperson shall preside at the confirmation hearing. The chairperson also is authorized to:

(1) act on behalf of the commission in all matters arising between hearings;

(2) adopt such internal guidelines and order measures as deemed appropriate to implement these guidelines, or for good cause extend or shorten the time periods set forth in these guidelines;

(3) set time limits for the testimony of witnesses;

(4) at the hearing, limit or terminate a witness's testimony for failure to comply with these guidelines;

(5) exclude any person from the hearing who disrupts the proceedings; and

(6) make security arrangements for the confirmation hearing.

Adopted effective May 18, 1999; amended effective July 1, 2005, and March 1, 2006.

Guideline 4. Pre-hearing procedures

(a) [Scheduling, notice, and location of public hearing] The chairperson shall schedule the confirmation hearing within a reasonable time after the nomination and shall issue a press release announcing the time, place, and subject of the hearing.

(b) [Commission on Judicial Nominees Evaluation (Gov. Code, § 12011.5)] The chairperson shall request the Commission on Judicial Nominees Evaluation of the State Bar (JNE) to:

> (1) submit to the commission as soon as practicable, but in no event later than the time specified in paragraph (d) of this guideline, its written recommendations to the commission concerning the nominee, and the reasons therefor, and, if specifically requested, all prior JNE recommendations, including the date of evaluation and the court for which the nominee was evaluated; and
>
> (2) designate a representative to testify at the hearing as to the JNE evaluation of the nominee.

(c) [Communications with the commission] All communications regarding a nominee must be made in writing to the commission and/or by testimony at the hearing. Communications regarding a nomination or nominee should be made to the commission as a whole rather than to any commission member individually, and shall be distributed promptly to the members of the commission. Communications may be sent to the commission by United States Mail, overnight delivery, messenger service, or fax, to arrive within the time specified in these guidelines. The commission generally will not formally acknowledge receipt of written presentations concerning a nominee's qualifications. Communications that are received by the commission after the time specified in these guidelines shall be returned to the sender by the secretary to the commission.

(d) [Written presentations and requests to testify; time for submission]

> (1) Individuals, including the nominee, who submit a written presentation or request to testify before the commission must identify themselves by name, address, and occupation, and, if applicable, shall identify the name, address, and purpose of any agency or organization for which they are acting in a representative

capacity. Telephone numbers and any fax numbers of these individuals and organizations must be included.

(2) Except for the nominee's list of those witnesses whom he or she wishes to testify, as described under paragraph (g), all requests to testify before the commission must be in writing and must specifically state whether the witness will be testifying in support of or in opposition to the nominee, and describe the proposed testimony, its relevance to the nominee's qualifications, and the facts upon which the witness's testimony and opinion will be based. All written presentations or requests to testify must be received by the commission no later than 5:00 p.m. on the fifth court day before the hearing. (For example, if a hearing is to be held on a Monday, the fifth court day before the hearing would be the preceding Monday, unless a judicial holiday falls in between. Each intervening judicial holiday requires an additional court day's notice.)

(e) [Permissible testimony] The commission shall review requests to testify and shall permit testimony that is relevant to the nominee's qualifications. Testimony relating to the judicial system generally or to the overall nomination or confirmation process will not be received. Testimony that is unduly cumulative to or repetitive of other testimony may be excluded. A person whose request to testify is denied shall be so informed by the commission as soon as possible before the hearing, by telephone or fax.

(f) [Notice to nominee] The commission promptly shall provide the nominee with a copy of all the written presentations or requests to testify it receives and shall afford the nominee an opportunity to refute, clarify, or comment, either at the hearing or before the hearing in writing, or both. Similarly, if the commission receives any record, public or private, or any other communication relating to the nominee's qualifications, it promptly shall provide the nominee with a copy thereof, and afford the nominee an opportunity to refute, clarify, or comment on that record or communication (consistent with the provisions of Cal. Const. art., VI, § 18.5). All written responses by the nominee must be received by the commission no later than 5:00 p.m. on the third court day before the hearing.

(g) [Nominee's witness list] The nominee shall present the commission with a list of any witnesses he or she wishes to testify at the hearing. This list must include the information required by paragraph (d)(1) and shall be received by the commission no later than 5:00 p.m. on the third court day before the hearing.

(h) [Release of lists of speakers and communications] No later than 2:00 p.m. on the second court day before the scheduled hearing, the commission shall release to the public the following:

(1) the names of witnesses who will testify at the hearing;

(2) the names of any individuals or organizations that have submitted written communications to the commission;

(3) correspondence and public reports received by the commission concerning the nominee's qualifications, including any reports submitted by JNE pursuant to paragraph (b), and the nominee's Personal Data Questionnaire submitted by the Governor to the commission. The commission, however, shall delete any confidential personal information such as an individual's residential address, or Social Security or driver's license number. The written material released shall be made available for copying at the requesting party's expense.

Adopted effective May 18, 1999; amended effective July 1, 2005, and March 1, 2006.

Guideline 5. Hearing procedures

(a) [Conference] The commission members may confer before the confirmation hearing to consider procedural issues.

(b) [Absence of commission member] Concurrence of at least two commission members present at the hearing is necessary to confirm a nominee. If the Chief Justice is recused or unavailable, the Acting Chief Justice shall serve as the chairperson. If the presiding justice described in Guideline 2 is recused or unavailable, the presiding justice of the affected district who has presided next longest as presiding justice, or, in districts with a single presiding justice, the acting presiding justice, or for a nomination to the Supreme Court, the presiding justice who has presided next longest as presiding justice on any Court of Appeal, shall serve. (See Cal. Const., art. VI, §§ 2, 3, and 7.) A request that a commission member not participate in proceedings of the commission shall be decided by that member alone. The hearing may proceed if two members of the commission are present.

(c) [Witnesses] Witnesses shall be heard in the following order**:**

(1) witnesses in support of the nominee;

(2) witnesses in opposition to the nominee;

(3) the JNE representative;

(4) the nominee.

(d) [Exhibits and demonstrative evidence] Witnesses must testify orally and have no right to present exhibits or demonstrative evidence at the hearing.

(e) [Record of hearing] The hearing proceedings shall be recorded by audio or video recorder, court reporter, or any other means appropriate for preserving the testimony. A nominee who wishes to make his or her own arrangements to record the hearing by video recorder or other means shall notify the commission in writing. This notice must be received by the commission no later than 5:00 p.m. on the second court day before the hearing.

(f) [Public attendance and broadcasting] The hearing shall be open to the public and to the media. Any request to broadcast, photograph, or record the hearing requires the approval of the chairperson, upon written application received no later than 5:00 p.m. on the second court day before the hearing. The request, as well as the broadcasting, photographing, and recording, shall comply with the provisions of California Rules of Court, rules 1.150 and 2.954, where applicable.

(g) [Announcement of decision] The commission may deliberate privately, but shall announce its decision publicly at the hearing, as well as by subsequent news release. If necessary, the hearing may be continued to a future date for further proceedings.

(h) [Official record] The commission's minutes shall be the official record of the hearing.

Adopted effective May 18, 1999; amended effectiveJuly 1, 2005, and November 19, 2007.

Guideline 6. Staff to the commission

The chairperson of the commission may designate a person to act as secretary to the commission and one or more persons to act as assistant secretaries. The secretary shall maintain custody of the commission's files. The Administrative Office of the Courts, at the chairperson's direction, shall provide additional staff and financial support as necessary to enable the commission to perform its duties.

Adopted effective May 18, 1999.

Guideline 7. Post-hearing procedures

(a) [Access to the commission's files] Except as otherwise provided in paragraph (b) of this guideline, after the conclusion of any nomination proceedings of the commission subject to these guidelines, a person, agency, or organization, upon written request to the commission's secretary, may obtain access to the public portions of the commission's files, as defined in guideline 4(h), as well as any transcript of the hearing prepared by a court reporter as a record of those proceedings pursuant to guideline 5(e), for inspection and copying at the requesting party's expense.

(b) [Audio or video recording] Any audio or video recording prepared as a record of the hearing pursuant to guideline 5(e) shall be copyrighted and made available for viewing at a time and location specified by the commission's secretary, but shall not be available for copying by the requesting party unless such copying is authorized by the commission.

Adopted effective May 18, 1999; amended effective July 1, 2005.

Guideline 8. Publication and distribution of these guidelines

(a) [Official guidelines] These guidelines for the Commission on Judicial Appointments shall be published by the Reporter of Decisions in the advance pamphlets of the California Official Reports and shall be made available on the judicial branch's Web site (at *www.courtinfo.ca.gov/reference/documents/guidelinescja.pdf*) or by calling the Public Information Office of the Administrative Office of the Courts at (415) 865-7740.

(b) [News release] Information regarding access to these guidelines shall accompany each news release announcing a commission hearing.

(c) [Copies] A copy of these guidelines shall be sent to the nominee with the notice of the hearing, and to each designated witness.

Adopted effective May 18, 1999; amended effective March 1, 2006, and November 19, 2007.