

# THE ABA STANDING COMMITTEE ON FEDERAL JUDICIARY

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*What It Is and How it Works*

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American Bar Association

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## **I. APPOINTMENTS TO FEDERAL COURTS OTHER THAN THE SUPREME COURT**

Under ordinary circumstances, the Committee reports on candidates for approximately sixty vacancies on the federal courts each year. Following the periodic enactment of omnibus judgeship bills creating new judicial positions, this number has exceeded one hundred.

### **A. Evaluation Criteria**

The Committee's evaluation of nominees to these courts is directed solely to professional qualifications: integrity, professional competence and judicial temperament.

Integrity is self-defining. The nominee's character and general reputation in the legal community are investigated, as are his or her industry and diligence.

Professional competence encompasses such qualities as intellectual capacity, judgment, writing and analytical ability, knowledge of the law and breadth of professional experience.

The Committee believes that ordinarily a nominee to the federal bench should have been admitted to the bar for at least twelve years and should have been engaged in the practice of law. In evaluating the experience of a nominee, the Committee recognizes that opportunities for advancement in the profession for women and members of minority groups may have been limited. Substantial courtroom and trial experience (as a lawyer or a trial judge) is important for nominees to both the appellate and the trial courts. Additional experience that is similar to in-court trial work -- such as appearing before or serving on administrative agencies or arbitration boards, or teaching trial advocacy or other clinical law school courses -- is considered by the Committee in evaluating a nominee's trial experience. Significant

evidence of distinguished accomplishment in the field of law may compensate for a nominee's lack of substantial courtroom experience.

Recognizing that an appellate judge deals primarily with records, briefs, appellate advocates and colleagues (in contrast to witnesses, parties, jurors, live testimony and the theater of the courtroom), the Committee may place somewhat less emphasis on the importance of trial experience as a qualification for the appellate courts. On the other hand, although scholarly qualities are necessary for the trial courts, the Committee believes that appellate court nominees should possess an especially high degree of scholarship and academic talent and an unusual degree of overall excellence. The ability to write lucidly and persuasively, to harmonize a body of law and to give guidance to the trial courts for future cases are considered in the evaluation of nominees for the appellate courts.

The Committee considers that civic activities and public service are valuable experiences, but that such activity and service are not a substitute for significant experience in the practice of law, whether that experience be in the private or public sector.

In investigating judicial temperament, the Committee considers the nominee's compassion, decisiveness, open-mindedness, courtesy, patience, freedom from bias and commitment to equal justice under the law.

## **B. The Investigation**

After a judicial vacancy occurs and a nomination is announced, the investigation of the nominee is usually assigned to the circuit member of the Committee in the judicial circuit in which the judicial vacancy exists, although it may be conducted by another member or a former member.<sup>3</sup>

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<sup>3</sup> The individual making the investigation is hereinafter referred to as the "circuit member."