

State. The Commissioners are not compensated for their service, and each serves a four-year term.

ELIGIBILITY REQUIREMENTS FOR NOMINEES

In order to qualify for nomination, a candidate must be a resident of New York State and have been admitted to practice law in New York for at least 10 years. There are no other eligibility requirements. For example, a candidate need not have prior service as a judge and need not be a practicing lawyer.

THE PRE-NOMINATION PROCESS

Whenever a vacancy on the Court of Appeals arises, the Commission begins the nomination process which ultimately yields a short list of candidates for the Governor's selection. The nomination process is initiated when candidates submit applications to the Commission or are recommended by others. The Commission requires each candidate to answer a comprehensive questionnaire which covers the candidate's personal, education and professional background, legal experience and community activities. The Commission also requires each candidate to submit a personal statement setting out the candidate's views on the law, the judiciary, the Court of Appeals and his or her candidacy.

The Commission strives to obtain as complete a picture of each candidate's qualifications and achievements as possible. In addition to the questionnaires and personal statements, the Commission considers writing samples of the candidates and judicial decisions, if any. The Commission also considers each candidate's reputation in the community, and information provided by colleagues, adversaries, and others who have come into contact with the candidate during his or her career.

* After gathering a wealth of information, the Commission meets as a body to interview each of the final round of candidates that it is considering. The candidates in the final group considered by the Commission must also submit full information on their finances.

Only after this review process do the Commissioners cast votes to determine which candidates will be submitted to the Governor as the best qualified to serve on the Court of Appeals. The voting procedures used by the Commission ensure that no candidate will be recommended to the Governor without broad support from a large majority of the Commission, including the favorable votes of at least eight of the twelve Commissioners. All proceedings and records of the Commission are confidential.

THE NOMINATION PROCESS

For a vacancy in the office of Associate Judge, the Commission is required to nominate between three and seven candidates to the Governor. For the office of Chief Judge, the Commission must nominate seven candidates. The Commission does not rank the nominees submitted to the Governor. The Governor, with the advice and consent of the Senate, may only appoint judges to the Court of Appeals from the list of candidates nominated by the Commission.

In this way, the Commission fulfills its duty to the citizens of this State by making sure that our State's highest court -- our "court of last resort" -- is served by highly qualified and dedicated judges.

April, 1998

John F. O'Mara, Chair
Warren Anderson
Edward F. Cox
Michael C. Finnegan
Josephine L. Gambino
Patricia Green
Berta E. Hernandez
Janet M. Kassar
Gerald B. Lefcourt
Alan Mansfield
Basil Paterson
Muriel Siebert

Stuart A. Summit, Counsel
Stephen P. Younger, Assistant Counsel

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State of New York
COMMISSION ON JUDICIAL NOMINATION
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New York, New York 10103-0084
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**QUESTIONNAIRE FOR CANDIDATES FOR
ASSOCIATE JUDGE OF THE COURT OF APPEALS**

This questionnaire must be completed and verified before consideration of candidacy can commence.

Unless otherwise indicated, every question must be answered, although the answer may be negative, or by an indication that the question is inapplicable.

If the space given is insufficient for an answer, complete the answer on a sheet or sheets and attach them to this questionnaire.

Judiciary Law, Article 3-A, § 66 provides that all communications to the Commission, including applications among other things, shall be confidential and privileged and not available to any person, except as otherwise provided in Article 3-A, and except for the purposes of Article 210 of the Penal Law, which relates to perjury.

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1. Full name. *(If you have ever used or been known by any other name, state that name.)*
 2. Social Security number.
 3. Office address and telephone and fax numbers.

EX "B-2"

29. To your knowledge, has any complaint or charge ever been made against you as a lawyer? If so, furnish full details, including the Bar Association or other entity to which the charge was referred, the nature of the complaint or charge, the outcome and the dates involved.¹

30. (a) To your knowledge, has any complaint or charge ever been made against you in connection with your service in a judicial office? Include in your response any question raised or inquiry conducted of any kind by any agency or official of the judicial system.

(b) If the answer to subpart (a) is "Yes", furnish full details, including the agency or officer making or conducting the inquiry, the nature of the question or inquiry, the outcome and relevant dates.²

¹ Judiciary Law, Article 3-A § 64(3) provides that this Commission may require from any court or other agency of the State any information or data as will enable it properly to evaluate qualifications of candidates, subject to an absolute judicial or executive privilege where one exists.

² Judiciary Law, Article 3-S § 64(3) provides that this Commission may require from any court or other agency of the State any information or data as will enable it properly to evaluate qualifications of candidates, subject to an absolute judicial or executive privilege where one exists.

Ex "B-3"

- (d) During the past 10 years, have you been a party in any litigation other than an Article 78 proceeding brought against you as a public officer? _____. If so, state the facts, provide the relevant dates and provide a copy of the complaint and any judicial decision in the action.

33. In responding to the following questions, please answer as fully as possible to the extent that there is any circumstance that a reasonable person would find relevant to the performance of the duties of Judge of the Court of Appeals.

- (a) What is the present state of your health?
- (b) Have you in the past ten years (i) been hospitalized or otherwise confined due to injury or illness or (ii) been prevented from working due to injury or illness or otherwise incapacitated for a period in excess of ten days? If so, give the particulars, including the causes, the dates, the places of hospitalization or confinement or incapacitation.
- (c) Do you suffer from any impaired physical or mental condition?
- (d) Are you currently under treatment for an illness or physical condition? If so, give details.
- (e) During the past ten years, have you been treated for, or had any problem with, alcohol or drug abuse or any other form of substance abuse? If so, give details.
- (f) During the past ten years, have you been treated for or suffered from any mental illness? If so, give details.

INFORMATION AND PRIVACY WAIVER
(New York State and Miscellaneous)

I hereby waive the privilege of privacy and confidentiality including, without limitation, any confidentiality under Section 90 of the Judiciary Law, with respect to any information which concerns me and is known, recorded with, on file with or in the possession of any person or organization including, without limitation, any governmental, judicial, investigative or other official agency, grievance or disciplinary committee, body or court, any bar association or other professional association, and any educational institution, doctor or hospital; I hereby consent to the release of all such information to the New York State Commission on Judicial Nomination and consent to the issuance, without notice, of any order necessary or appropriate to obtain such information; I hereby authorize a representative of the New York State Commission on Judicial Nomination to request and any such information; and I hereby request any such organization or person in possession of such information to deliver it to a representative of the New York State Commission on Judicial Nomination.

I specifically consent to the release of any such information in the possession of the New York State Commission on Judicial Conduct and request that the same be delivered to a representative of the New York State Commission on Judicial Nomination.

(Signature)

Sworn to before me this
____ day of _____, 19__

Notary Public

EX B-4

INFORMATION AND PRIVACY WAIVER
(Federal)

I, _____, am informed that as part of a routine check of my background in connection with possible appointment to a position on the New York State Court of Appeals, the Commission on Judicial Nomination may wish to make inquiries concerning me to various agencies of the Federal government. Having been advised that information from the files of Federal agencies may be unavailable to the Judicial Nomination Commission without my written consent due to the Privacy Act of 1974, 5 United States Code Section 552a, and the Freedom of Information Act, 5 U.S.C. Section 552, I hereby consent to inquiries concerning me by the Commission on Judicial Nomination to any Federal agency and to the disclosure to the Commission on Judicial Nomination by such Federal agency of any information the agency may have pertaining to me with the exception of any material which is specifically exempt from disclosure by a Federal statute other than the Privacy Act of 1974 or the Freedom of Information Act.

(Signature)

Sworn to before me this
____ day of _____, 19__

Notary Public

EX "B-5"