

## UNIFORM RULES OF PROCEDURE FOR COMMISSIONS ON APPELLATE AND TRIAL COURT APPOINTMENTS

### RULE 1. PURPOSE

Article VI, Section 36 of the Arizona Constitution provides that when making recommendations for judicial office, the Commission on Appellate Court Appointments “shall consider the diversity of the state’s population, however, the primary consideration shall be merit.” Similarly, Article VI, Section 41 of the Arizona Constitution provides that the Commissions on Trial Court Appointments “shall consider the diversity of the county’s population and the geographical distribution of the residences of the judges throughout the county, however, the primary consideration shall be merit.” The goal, therefore, of the judicial nomination process is to select judges who have outstanding professional competence and reputation and who are also sensitive to the needs of and held in high esteem by the communities they serve and who reflect, to the extent possible, the ethnic, racial and gender diversity of those communities. Competence and diversity among our judges will enhance fairness and public confidence in judicial proceedings.

### RULE 2. COMMISSION CHAIR

The Chief Justice of Arizona, or such other Justice of the Supreme Court as shall be appointed by the Supreme Court to serve in place of the Chief Justice, shall be chair of each Commission. The Chair shall preside at all meetings of each Commission.

### ~~RULE 3. COMMISSION SECRETARY~~

~~—The Chair shall appoint a member of each Commission as Secretary subject to the approval of the Commission. It shall be the duty of the Secretary to sign the record of the action taken at each meeting upon approval by the Commission. Either the Chair or the Secretary at the direction of the Chair shall sign all correspondence for the applicable Commission. In the Secretary’s absence a Commission shall choose a member to be Acting Secretary.~~

### RULE 43. COMMISSIONER IMPARTIALITY

a. A Commissioner shall consider each applicant for a judicial office in an impartial, objective manner.

b. A Commissioner shall disclose to the Commission any relationship with an applicant (business, financial, personal, fiduciary, or attorney-client) ~~or any other possible cause for conflict of interest, bias or prejudice. A Commissioner shall also disclose efforts to recruit an applicant. A Commissioner is disqualified from voting or otherwise participating in the nominating process so long as a member of the~~

~~Commissioner's immediate family (spouse, child, parent, sibling, or step relative in any of these relationships) is an applicant under consideration for nomination. A Commissioner is disqualified from voting on an application by a spouse of the Commissioner's child; a Commissioner's in-law, aunt, uncle, nephew, niece, grandparent, grandchild, or first cousin; or by an applicant who currently works in the same company, firm or organization as the Commissioner. A Commissioner is also disqualified from voting on an application if voting on any application that would present a conflict of interest. At the commencement of any Commission meeting where qualifications of any applicant are to be considered, the Chair shall inquire as to any basis of disqualification or disclosure pursuant to this rule.~~

~~c. A Commissioner is disqualified from voting or otherwise participating in the nominating process so long as a member of the Commissioner's family (spouse, child, parent, sibling, in-law, aunt, uncle, nephew, niece, grandparent, grandchild, first cousin or step-relative in any of these relationships) is an applicant under consideration for nomination. A Commissioner is disqualified from voting on an applicant who currently works in the same company, firm or organization as the Commissioner. A Commissioner shall disqualify himself or herself in any proceeding in which the Commissioner's impartiality about an applicant might reasonably be questioned. If a Commissioner's impartiality is called into question by any Commissioner, the Chair will call for a vote on the matter. Upon a majority vote, the Commissioner will be disqualified from voting on the applicant shall not be influenced other than by facts or opinion which are relevant to the judicial qualifications of the applicants. A Commissioner shall promptly report to the Chair any such attempt by any person or organization to influence a Commissioner other than by fact or opinion.~~

~~d. A Commissioner shall not be influenced other than by facts or opinions which are relevant to the judicial qualifications of the applicants. A Commissioner shall promptly report to the Chair any attempt to influence a Commissioner other than by facts or opinions.~~

~~e. A Commissioner shall not communicate verbally or in writing with an applicant about the application or the nomination process from the time the application is submitted until the individual's application is no longer under consideration. Commissioners may communicate with individuals whose applications rolled over from a previous vacancy from the date the application was released from consideration in the previous vacancy until the date the new application period closes. individually communicate verbally or in writing with an applicant, from the time the application is submitted until the Commission conducts its final vote on the nominations and is dismissed, about the application, the contents of the application, the judicial position, the Commission, the nomination process or any other matters related to the judicial vacancy which is the subject matter of the application.~~

#### **RULE 54. COMMISSION MEETINGS**

~~a. Meetings of a Commission may be called by the Chair or a majority of Commissioners~~the members~~ by written notice to the entire Commission~~other members~~~~

specifying the time and place of meeting. Such notice shall be posted on the Commission's website at least seven (7) calendar days before the meeting date, mailed or delivered at least seven (7) days before the time specified, except that an emergency meeting may be held on shorter notice if the Chair or a majority of ~~the~~ Commissioners conclude ~~that~~ it is essential to hold an emergency meeting. The right to notice of a meeting may be waived by any Commissioner either before or after the meeting takes place. Attendance at a meeting by any ~~member~~ Commissioner shall constitute a waiver of such notice unless the ~~member~~ Commissioners, at or promptly after the beginning of such meeting, objects to the holding of the meeting on the ground of lack of, or insufficiency of, notice.

**b.** All Commissioners are strongly encouraged to attend every meeting in person. The Constitutional deadline for submitting nominations to the Governor requires that meetings be held as scheduled. In extenuating circumstances, the Chair may permit a Commissioner to attend and vote in an administrative meeting or in a screening meeting via telephone, video conferencing, or similar means. With the exception described in this subsection, a Commissioner shall not participate in applicant interviews or vote on nominations through electronic means. If the Commission would otherwise be unable to obtain a quorum for scheduled interviews, thereby risking the Commission's ability to meet the 60-day Constitutional deadline for submitting nominations to the Governor, the Chair may allow a Commissioner to participate in applicant interviews and vote on nominations through electronic means. A member who attends electronically accepts the risk that technical problems could disrupt participation. A Commissioner may be present at an administrative meeting or a screening meeting through electronic means such as telephone or video conferencing upon approval of the Chair. A Commissioner shall not participate in applicant interviews or voting on nominations through electronic means. To assure that a Commission will meet the 60-day constitutional deadline for submitting nominations to the Governor, the Chair of the Commission shall approve requests by members to attend electronically only after confirming that a quorum plus one of the Commissioners in office at the time of the meeting will be physically present at the meeting location. A member who attends electronically accepts the risk that technical problems could occur which would prevent their actual participation and recognizes that the constitutional deadline for submitting nominations to the Governor requires that meetings be held as scheduled.

c. The Chair shall issue a call for a meeting promptly upon learning of the existence or anticipated existence of a vacancy in a judicial office within the jurisdiction of the Commission.

d. Notice of all Commission meetings other than emergency meetings shall be posted to the Commission's website at least seven (7) calendar days before the meeting. The notice shall state the date, time and specific location of the meeting. Each Commission shall provide notice as reasonable and practicable, in advance of the meeting in locations identified in a statement to the public filed by the Secretary of each Commission with the Clerk of the Supreme Court. A notice of a Commission meeting shall state the date, time and specific location of the meeting. Each Commission shall provide such additional notice as is reasonable and practicable.

e. The ~~Chief Justice~~Chair shall call a meeting of all Commissioners at least once every two years for the at least one meeting each year of all Commissioners for the following purposes:

1. Educating~~or~~ Commissioners about procedures and purposes as stated in Rule 1 and discussing an individual Commissioner's role in accomplishing those purposes. ~~Orienting Commissioners about Commission procedures and purposes as stated in Rule 1 and a Commissioner's role in accomplishing that purpose.~~

2. Reviewing Commission actions during the preceding years. This review shall include a presentation of statistical information about applications, nominations and appointments relative to the Constitutional goal of diversity and such other matters as the Commission deems appropriate. Such statistics shall be compiled from information obtained in the applications, including information about nominees and appointees and statistical information about applications, nominations and appointments relative to the constitutional goal of diversity and such other matters as the Commission deems appropriate. Such statistics shall be compiled from information obtained in the applications.

3. Educating Commissioners about means ~~effor~~ improving the judicial nominating process. ~~through presentations by knowledgeable individuals and representatives of community organizations.~~

f. A quorum for a Commission meeting shall be a majority ~~plus one~~ of the Commissioners in office and eligible to participate at the time of the meeting. The Commission ~~A Commission~~ may act on any matter by majority vote of the Commissioners in attendance. ~~either than the decision to hold a meeting in executive session by majority vote of the Commissioners present and voting on the matter.~~

#### **RULE 65. RECRUITMENT OF APPLICANTS**

a. Commissioners shall actively seek out and encourage applications from qualified individuals who will reflect the diversity of the community they will serve. ~~Commissions shall enlist the aid of community groups and organizations in this effort.~~ It is incumbent

**b.** A Commissioner shall under no circumstances commit in advance to vote for any applicant.

**c.** Each Commission shall widely publicize vacancies by issuing press releases, posting notices online, and/or emailing vacancy notices to interested parties and groups. When feasible, such notices shall be given thirty (30) days or more before the deadline for applications. The notice of vacancy shall state that a Commission may, at its discretion, use the applications filed for the vacancy that is the subject of the announcement to nominate candidates for any additional vacancy or vacancies known to the Commission before the screening for the announced vacancy is held. provide wide public notice by press releases and by mailing notices of vacancies designed to encourage all interested parties and groups to submit names and recommend persons for initial consideration. When feasible, such notice shall be given thirty (30) days or more before the deadline for applications. The notice of vacancy shall state that a Commission may, at its discretion, use the

~~applications filed for the vacancy that is the subject of the announcement to nominate candidates for any additional vacancy or vacancies known to the commission before the screening meeting for the announced vacancy is held.~~

## **RULE 76. APPLICATION**

a. Every applicant shall complete and file with the Administrative Office of the Supreme Court ~~an signed original "Application for Nomination to Judicial Office" and a .pdf version of the application, in the manner instructed in the public announcement for each judicial vacancy. The application shall be on a form approved by the Supreme Court. The signed original paper application governs should discrepancies exist with the .pdf version. original and at least sixteen (16) copies of the "Application for Nomination to Judicial Office," as specified in the public announcement of each judicial vacancy. The application shall be on a form approved by the Supreme Court after opportunity for public comment.~~

**Commented [HV1]:** This will allow us to be more specific with instructions, e.g., specify filing on a flash drive and encouraging to bookmark.

b. ~~The original application and the .pdf version filed by an applicant not appointed by the Governor shall be retained for one year after the application deadline date stated on the first page of the application. of a person not appointed by the Governor shall be retained for six months after the application deadline date stated on the first page of the judicial application.—All documents received with respect to the person's application shall also be retained for six monthsone year. At thean applicant's request, the original application, the .pdf version, and anyany supplemental material submitted by the applicant maywill be returned to the applicant at any time during the six monthsone year period. Otherwise all documents and the .pdf shall be retained and provided to the Commission that originally considered the application if a new vacancy arises during the one year period. The applicant can withdraw his or her application for any or all vacancies occurring during that period by notifying the Commission in writing of the withdrawal. At the expiration of the one year period, any applications, .pdf files and supplemental materials retained by the Commission shall be destroyed and deleted. Unless earlier returned to the applicant, all documents shall be retained on file and provided to the appropriate Commission for any vacancy for which the person applies during the six month period the documents remain on file, unless the applicant states in writing that he or she does not wish to apply for any subsequent vacancy occurring within the six month period. If the application has not been returned to the applicant and is not being considered for any other pending vacancy, at the expiration of the six month period the application and all supplemental materials submitted by the applicant or any third party shall be destroyed.~~

c. Applications, .pdf files, and documents on file for each judicial vacancy shall be provided to the members of the appropriate Commission at least seven (7) calendar days ~~prior to the~~before the first Commission meeting concerning each vacancy.

d. Except as provided ~~in subsection (2) below~~hereafter, information provided to the Commission by the applicant or by a third party shall be ~~presumed to be~~available to the public. ~~The following information shall be confidential throughout the nomination process.~~

~~(1) All information in response to questions contained in Section II of the application form; The following shall be available to the public:~~

~~(2) written information provided to the Commission by a third party regarding an applicant, including the third party's identity, which the third party designates in writing as confidential information;~~

~~(3) ~~all~~ individual Commissioner's notes that are generated for personal use only and not published to other members of the Commission;~~

~~(4) any information obtained by or submitted to the Commission that is confidential by law.~~

~~(a) The applicant's name, occupation, employer, relevant work history, any other information provided in response to Section I of the application form, and any supplemental material submitted by the applicant relating to Section I;~~

~~(b) Any information that is specifically authorized for release by the source of that information.~~

~~(2) The following information shall remain confidential throughout the nomination and appointment process until destroyed at the conclusion of the six month period pursuant to subsection B.:~~

~~(a) The applicant's home address, information regarding the applicant's family, and all other information that is provided to the Commission in response to questions contained in Section II of the application form;~~

~~(b) Information provided in writing or orally to the Commission by third parties regarding an applicant, and the third party's identity, unless the third party specifically states in writing that the information may be made public;~~

~~(c) Notes of the individual Commissioners that are generated for personal use only and not published to other members of the Commission;~~

~~(d) Any information that is provided to a member of the Commission after a promise of confidentiality is properly extended to the source by that Commissioner pursuant to Rule 8(b) or 9(d);~~

~~(e) Any information obtained by or submitted to the Commission that is made confidential by other provisions of law.~~

**RULE 87. SCREENING OF APPLICATIONS AND SELECTION OF APPLICANTS  
FOR INTERVIEWS INTERVIEWEES**

**a. Public Notice and Comment:** Names of applicants and the date, place and time of the Commission meeting to screen applications shall be widely disseminated to the public. Comments about applicants should be made, if feasible, at least three (3) working days before the screening meeting as follows: (1) in writing to the Judicial Nominating Commission for distribution by staff to the Commission, or (2) verbally or by written or electronic means to the Commissioners(s).

**b. Investigation of Applicants:** As soon as Commissioners receive applications and documents on file, they ~~shall~~may begin investigating the background and qualifications of applicants. Using the application as a starting point, Commissioners ~~shall~~may contact as many of the individuals and institutions knowledgeable about the applicant as deemed beneficial. Commissioners shall encourage sources to allow their names to be disclosed to the commission, the applicant and the public~~and to the applicant~~, but may accept comments about an applicant from a source that requests confidentiality as to the other Commissioner~~commission and/or as to~~, the applicant, and/or the public, if the ~~e~~Commissioner believes it is in the public's best interest to accept such comments~~s of the public to accept such comment~~.

When a source provides a negative opinion about an applicant's character, fitness, or competency, the commissioner shall ask the source to provide a detailed factual basis for that opinion. The Commissioner shall also ask for the names and contact information of others who might have knowledge about the opinion. The Commissioner shall contact any individuals identified to ask about the applicant's character, fitness or competency. ~~comment given to a Commissioner concerning an applicant contains an opinion as to~~

~~the applicant's character, fitness or competency, the Commissioner shall inquire as to the factual basis, circumstances and examples which support the opinion and as to names of others whom the source of the opinion believes might have knowledge about the opinion.~~

c. **Screening Meeting**

1. **General:** The ~~appropriate~~ Commission shall meet ~~to decide for the purpose of deciding~~ which applicants ~~to interview~~ are to be interviewed. A Commission shall hold an executive session upon two-thirds vote of Commissioners in attendance in order to promote open and frank discussion of applicant qualifications. Each Commissioner shall disclose comments and other information ~~concerning each applicant~~ relied upon ~~to evaluate each applicant by that Commissioner in evaluating that applicant~~. If confidentiality has been promised to a source, ~~commissioners~~ ~~members shall~~ should consider whether less weight should be given to ~~that source's~~ ~~the~~ information. The Commission may hold an executive session upon a majority vote of Commissioners in attendance to promote open and frank discussion of applicant qualifications. The substance of deliberations in executive session shall not be disclosed. Information received in the course of the investigation that is material and adverse and is reasonably presumed to have a potential to influence the decision of the Commission shall be treated in accordance with paragraphs 3 and 4 below. The qualifications of each applicant shall be discussed and evaluated.

2. **Public Comment:** Members of the public are invited to briefly comment orally at the screening meeting. The Chair shall allocate equal time at the screening meeting for relevant comment on each applicant. The Chair may terminate comments which exceed the time allocated or which are irrelevant to the qualifications of applicants. The Chair may also limit duplicative comments regarding an applicant. Applicants are encouraged to invite no more than two (2) speakers to comment on their behalf. Applicants are asked to limit solicited reference letters to a maximum of twelve (12) from a diverse group of people who are well-acquainted with the applicant.

3. **Opinion Comments:** Negative ~~Opinions~~ that are not supported with a factual basis, ~~or circumstances~~, or a second source shall not be disclosed at the Commission meeting. If disclosed, the supporting information must also be disclosed. Opinions that are supported with factual basis or circumstances or a second source may be shared with the Commission at the meeting provided that the supporting information is also disclosed.

4. **Anonymous Comments:** ~~No~~ if information from an anonymous source shall not be considered by any Commissioner or shared with any other Commissioner or the Commission at any point in the screening process.

5. **Selection of Applicants for Interviews:** The Chair shall invite Commissioners to nominate applicants to be placed on a tentative list of those to be interviewed. Upon returning to public session, the Chair shall invite Commissioners to nominate applicants to be placed on a tentative list of those to be interviewed. Such a nomination requires the concurrence of one additional Commissioner. The name of each applicant who receives a vote of the majority of Commissioners ~~present and~~ voting shall be placed on a tentative list ~~of~~

11 ~~applicants to be interviewed.~~ Following this procedure ~~and~~ with or without an additional executive session or sessions, the tentative list of interviewees may be added to or subtracted from by public vote until a final list of applicants to be interviewed is determined. The Commission may vary these procedures at its discretion.

**RULE 98. INTERVIEWS OF APPLICANTS AND SELECTION OF NOMINEES**

a. **Public Notice and Comment:** Names of applicants selected for interview and the date, place and time of the Commission meeting to interview applicants shall be

widely disseminated to the public. The public, the judiciary and bar associations shall be invited to provide comments regarding these applicants. Comments about applicants should be made, if feasible, at least three (3) working days before the interview meeting as follows: (1) in writing to the Judicial Nominating Commission for distribution by staff to the Commission, or (2) verbally or by written or electronic means to the Commissioner~~s~~(s).

**b. Investigation of Applicants Selected for Interviews:** The Commissioner~~s~~ shall further evaluate selected applicants by contacting as many individuals, community groups and other sources as deemed reasonable to obtain information on about the applicants' life experiences, community activities and backgrounds. Commissioners shall encourage sources to allow their names to be disclosed to the Commission, the applicant and the public and to the applicant, but may accept comments about an applicant from a source that requests confidentiality as to the other Commissioner~~s~~, the applicant and/or the public~~s~~ to the applicant, if the Commissioner believes it is in the public's best interests of the public to accept such comments.

When a source provides a negative opinion about an applicant's character, fitness or competency, the Commissioner shall ask the source to provide a detailed factual basis for that opinion. The Commissioner shall also ask for the names and contact information of others who might have knowledge about the opinion. The Commissioner shall contact any individual identified to ask about the applicant's character, fitness or competency. comment given to a commissioner concerning an applicant contains an opinion as to the applicant's character, fitness or competency, the commissioner shall inquire as to the factual basis, circumstances and examples which support the opinion and as to names of others whom the source of the opinion believes might have knowledge about the opinion.

**c. Communication with Applicants:** Nothing in this rule prohibits the Chair of the Commission staff from contacting an applicant the Chair if he or she determines that such contact it is in the best interests of the Commission, the applicant or the public, the Commission, and the applicant, to make such contact.

**d. Interview Meeting**

**1. General:** Each Commission shall meet for the purpose of interviewing selected applicants in order to compile a list of nominees to be forwarded to the Governor. The Commission shall schedule sufficient time prior to the interview of each applicant to discuss and evaluate each applicant's qualifications and to determine whether any matter should be raised with the applicant during the interviews. of each applicant shall be discussed and evaluated. Each Commissioner shall disclose comments and other information relied on to evaluate each applicant. concerning each applicant relied upon by that Commissioner in evaluating that applicant. If confidentiality has been promised to a source, Commissioners should commission members shall consider whether less weight should be given to the that source's information. The Commission shall may hold an executive session upon a majority vote of Commissioners in

~~attendance to promote open and frank discussion of applicant qualifications. The substance of deliberations in executive session shall not be disclosed. Schedule sufficient time prior to the interview of each applicant to discuss the results of Commissioners' investigations and to determine whether any matters that were disclosed in the course of the investigation should be discussed with the applicant at the interview. Information received in the course of the investigation that is material and adverse and is reasonably presumed to have a potential to influence the decision of the commission shall be treated in accordance with paragraphs 3 and 4 below.~~

**2. Public Comment:** ~~Members of the public are invited to briefly comment orally at the screening meeting. The Chair shall allocate equal time at the screening meeting for relevant comment on each applicant. The Chair may terminate comments which exceed the time allocated or which are irrelevant to the qualifications of applicants. The Chair may also limit duplicative comments regarding an applicant. Applicants are encouraged to invite no more than two (2) speakers to comment on their behalf. Members of the public are invited to comment at the interview meeting. The Chair shall allocate equal time for relevant comment on each applicant. The Chair may terminate comments which exceed the time allocated or which are irrelevant to the qualifications of applicants. The Chair may also limit duplicative comments regarding an applicant.~~

**3. Opinion comments:** ~~Negative opinions that are not supported with a factual basis, or a second source shall not be disclosed at the Commission meeting. If disclosed, the supporting information must also be disclosed.~~ Opinions that are not supported with factual basis, or circumstances, or a second source shall not be disclosed at the commission meeting. Opinions that are supported with factual basis or circumstances or a second source may be shared with the commission at the meeting provided that the supporting information is also disclosed.

**4. Anonymous comments:** ~~Information from an anonymous source shall not be considered by any Commissioner or shared with any other Commissioner or the Commission at any point in the screening process. No information from an anonymous source shall be considered by any commissioner or shared with other commissioner or the commission at the interview meeting.~~

**5. Conduct of Interviews.** Selected applicants shall be publicly interviewed by Commissioners. ~~The Chair shall admonish the public in attendance not to disclose the interview questions or candidate answers until the conclusion of all interviews the meeting.~~ A Commissioner may question an applicant about comments made about the applicant for which confidentiality has been requested so long as the source of comment is not identified. Upon motion and a ~~two-thirds~~majority vote of the Commission, a portion of the interview may occur in executive session ~~unless, after given a choice, the interviewee elects to remain in public session, in which case the applicant shall have the right to disclose in public session the content of the executive session.~~

**6. Deliberations of the Commission:** ~~To the extent possible, no material and adverse information about an applicant that a Commissioner knows before the interview may be disclosed to the Commission after the interview occurs. Whether in public or in executive session, the Chair shall read the names of the applicants in alphabetical order and open the meeting to a discussion of that particular applicant's qualifications for judicial office. After this procedure has been followed for each applicant, the Chair shall open the meeting to a general discussion of the relative qualifications of all applicants. The Commission may hold an executive session upon a majority vote to promote open and frank discussion regarding the qualifications of applicants interviewed. The substance of deliberations in executive session shall not be disclosed. A Commission shall hold an executive session upon two-thirds vote of the members of the Commission in attendance in order to promote open and frank discussion regarding the qualifications of applicants interviewed. No material and adverse information about an applicant that is known to a Commissioner prior to the interview may be disclosed to the Commission after the interview occurs. Whether in public or in executive session, the Chair shall read the names of the applicants in alphabetical order and open the meeting to a discussion of that particular applicant's qualifications for judicial office. After this procedure has been followed for each applicant, the Chair shall open the meeting to a general discussion of the relative qualifications of all the applicants. To encourage frank~~

~~discussion, the substance of deliberations in executive session shall not be disclosed.~~

**7. Selection of Nominees for Submission to the Governor:** All voting by each Commission on the number of nominees to be forwarded to the Governor and on the applicants nominated shall be in public session. ~~Upon returning to or continuing in public session, t~~The Chair shall invite Commissioners to nominate applicants interviewed to be placed on a tentative list of those to be nominated to the Governor. Such a nomination requires the concurrence of one additional Commissioner. The name of each applicant who receives a vote of the majority of Commissioners voting shall be placed on the tentative list. Following this procedure, with or without an executive session or sessions, the tentative list of nominees may be added to or subtracted from by public vote until a final list of nominees is determined. The Commission may vary these procedures at its discretion, for consideration for referral to the Governor for appointment. Such a nomination requires the concurrence of one additional Commissioner. Each applicant who receives a vote of the majority of Commissioners present and voting shall be listed for consideration for referral to the Governor. Such list is only tentative and names may be added to or subtracted from it at any time by further vote of the Commission. The Commission may return to executive session to further discuss the applicants under consideration. The above process may be repeated until the resulting list of nominees satisfies constitutional requirements and is approved for referral to the Governor by a public vote of the Commission.

~~e. **Communication after Interview Meetings:** A Commission may designate a member or members to communicate with applicants not nominated to the Governor. If a Commissioner receives new written information about a nominee to the Governor after the interview meeting has adjourned, the Commissioner shall forward the information to the Chair of the Commission and the Chair shall forward the information to the Governor's office, with a cover memorandum explaining that the information was not submitted in time for consideration by the Commission and the applicant had neither been questioned about nor responded to the information. If the information is verbal, the Commissioner shall advise the source about his or her right to contact the Governor's office.~~

**RULE 409. TRANSMITTAL TO THE GOVERNOR**

The names of the nominees, listed in alphabetical order, shall be delivered to the Governor as directed by the Chair. The Chair shall ~~thereafter~~ promptly inform the public of the names of the nominees.

~~In order to~~To facilitate the Governor's selection of the appointee, the Commission file concerning each nominee shall be provided to the Governor with the list containing that nominee's name unless the respective Commission directs otherwise. Commission staff shall separately identify the information that is deemed confidential under these rules and ask that this information continue to be kept confidential.