

**Appendix C**  
**Rule by Rule Description of Proposed Amendments**

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

**RULE 1. PURPOSE**

No proposed amendments.

**RULE 2. COMMISSION CHAIR**

No proposed amendments.

**RULE 3. COMMISSION SECRETARY**

The Committee proposes to delete this rule. Over the years, the task of taking the minutes has been delegated to AOC staff and when they are approved by the Commission, they are posted online. This position is no longer necessary.

**RULE 4. COMMISSIONER IMPARTIALITY**

a. No proposed amendments.

b. The Committee proposes to clarify this rule with a substantive change. Previously, the rule laid out specific and sometimes confusing relationships to judicial applicants that had to be disclosed. This change requires Commission members to simply disclose all relationships with judicial applicants (business, financial personal, fiduciary, or attorney-client). Further, the Committee proposes to split this rule organizationally into 4.b and 4.c. Rule 4.c. will specifically address when a Commissioner is disqualified from voting or otherwise participating in the nominating process for an individual applicant (ex: spouse).

c. The Committee proposes to make non-substantive, grammatical corrections to this rule and to organizationally change it to Rule 4.d.

d. The Committee proposes to make changes to this Rule clarifying the timeframe in which a judicial applicant may communicate with Commission members and to organizationally change it to Rule 4.e.

**RULE 5. COMMISSION MEETINGS**

a. The Committee proposes to make non-substantive changes that incorporate

language related to new technology and processes such as posting commission meeting agendas on the website.

**b.** The Committee proposes to make changes to this Rule clarifying when a Commission member may attend meetings electronically or telephonically.

**c.** No proposed amendments.

**d.** The Committee proposes to make non-substantive changes that incorporate language related to new technology and processes such as posting commission meeting agendas on the website.

**e(1-3).** The Committee proposes one substantive change to this rule making the annual meeting at least every two years because it is not necessary for all Commissions to meet once a year. However, if necessary, the language allows for a meeting once a year. The Committee also proposes to make non-substantive, language clarifying and grammatical corrections to this rule.

**f.** The Committee proposes to change the quorum for a Commission to a simple majority from a majority plus one. The Committee also proposes to have a quorum consist of Commissioners in office and eligible to participate instead of simply those in office in order to compensate for any member who may have to recuse him or herself from the process.

## **RULE 6. RECRUITMENT OF APPLICANTS**

**a.** The Committee proposes to remove the requirement to enlist the aid of community groups and organizations in the applicant recruitment process since the vacancy announcements are announced online and via press releases.

**b.** No proposed amendments.

**c.** The Committee proposes to make non-substantive changes that incorporate language related to new technology and processes such as posting commission meeting agendas on the website.

## **RULE 7. APPLICATION**

**a.** The Committee proposes to reduce the application copy requirement from 16 paper copies to one original and an electronic .pdf version.

**b.** The Committee proposes that judicial applications and related documents submitted for consideration by the Commissions be retained for one year as opposed to the current six month period.

c. The Committee proposes to make non-substantive changes that incorporate language related to new technology and processes such as the use of .pdf documents.

d. The Committee proposes to make substantive changes re-categorizing and reorganizing Rule 7.d. to explain that information provided to the Commission including applications and third party letters shall be public except for the items in sections 1-4, which include the confidential section of the application, written information provided by a third party that has been designated as confidential, Commissioner notes and any information that is confidential by law.

## **RULE 8. SCREENING OF APPLICATIONS AND SELECTION OF INTERVIEWEES**

a. The Committee proposes to make non-substantive changes that incorporate language related to new technology and processes such as posting commission meeting agendas on the website.

b. In addition to non-substantive grammatical changes, the Committee proposes to clarify the responsibilities of Commissioners who receive negative opinions about applicants' character, fitness or competency. This change makes clear that Commissioners are to glean detailed factual bases for any negative comments as well as contact information for other individuals who may be able to corroborate the account(s).

### **c. Screening Meeting**

1. **General:** The Committee proposes to change the vote requirement for entry to executive session from two-thirds vote to a simple majority vote. Also proposed is language clarifying that the purpose of executive session is to promote frank and open discussion about applicant qualifications.

2. **Public Comment:** The Committee proposes language clarifying that applicants are encouraged to invite only two speakers on their behalf and to solicit only 12 reference letters.

3. **Opinion Comments:** The Committee proposes language clarifying that unsupported negative opinions shall not be disclosed at Commission meetings.

4. **Anonymous Comments:** The Committee proposes to make non-substantive, grammatical corrections to this rule.

5. **Selection of Applicants to be Interviewed:** The Committee proposes to clarify the process by which applicants are selected for interview. This rule change would state that applicants are nominated to a tentative interview list; a nomination must receive a second and a majority vote of commissioners. This tentative list may be added

to or subtracted from until a final list of interviewees is determined.

## **RULE 9. INTERVIEWS OF APPLICANTS AND SELECTION OF NOMINEES**

a. The Committee proposes to make non-substantive changes that incorporate language related to new technology and processes such as posting commission meeting agendas on the website.

### **b. Investigation of Applicants Selected for Interviews:**

The Committee proposes to make non-substantive, grammatical corrections to this rule and to clarify the responsibilities of Commissioners who receive negative opinions about applicants' character, fitness or competency. This change makes clear that Commissioners are to glean detailed factual bases for any negative comments as well as contact information for other individuals who may be able to corroborate the account(s).

c. **Communication with Applicants:** The Committee proposes language clarifying that the Chair and/or Commission staff may contact applicants if the Chair determines that such contact is in the best interest of the Commission, the applicant or the public.

### **d. Interview Meeting**

1. The Committee proposes to add language allowing time prior to the interview to discuss and evaluate an applicant's qualifications in case an issue arises that the Commission would like to address with the applicant during the interview. The Committee also proposes to change the vote requirement for entry to executive session from two-thirds vote to a simple majority vote. Also proposed is language clarifying that the purpose of executive session is to promote frank and open discussion about applicant qualifications.

2. **Public Comment:** The Committee proposes language clarifying that applicants are encouraged to invite only two speakers on their behalf and to solicit only 12 reference letters.

3. **Opinion comments:** The Committee proposes language clarifying that unsupported negative opinions shall not be disclosed at Commission meetings.

4. **Anonymous comments:** The Committee proposes to make non-substantive, grammatical corrections and clarifications to this rule.

5. **Conduct of Interviews.** The Committee proposes language that explains the Chair's responsibility to admonish the public in attendance not to disclose the interview questions or candidate answers until the conclusion of all interviews. Also proposed is language allowing the interviewee the opportunity for a portion of the

interview to occur in executive session.

**6. Deliberations of the Commission.** The Committee proposes language to explain that, to the extent possible, adverse information about an applicant shall not be disclosed after an interview and clarifies the deliberation process.

**7. Selection of Nominees for Submission to the Governor.** The Committee proposes to clarify the process by which applicants are selected for nomination. This rule change would state that applicants are nominated to a tentative nomination list; a nomination must receive a second and a majority vote of commissioners. This tentative list may be added to or subtracted from until a final list of nominees is determined.

**e. Communication after Interview Meetings:** The Committee proposes to delete this rule.

## **RULE 10. TRANSMITTAL TO THE GOVERNOR**

The Committee proposes to add language stating that Commission staff will inform the Governor's office which information in the nominee file has been deemed confidential under these rules and to ask the Governor's office that the information remain confidential.