**RULES OF THE JUDICIAL NOMINATION COMMISSION**

**Revised June, 2020**

**Rule 1. Organization -- Duties – Quorum**

1.1 The Judicial Nomination Commission (Commission) shall elect from its members a Chair to preside over meetings and exercise all powers consistent with these Rules and necessary to the

efficient operation of the Commission.

1.2 The Commission shall elect from its members a Secretary to:

a. Keep a record of all proceedings of the Commission and, with assistance as needed from the Office of Court Administrator, perform the following tasks:

i. issue all notices of vacancies to the media as required by Rule 2

ii. set the time and place for meetings in consultation with the Chair;

iii. issue all notices to applicants; and

iv. serve as the Commission’s authorized correspondent with applicants, and as directed by the Chair, correspond with the public and the media

b. Assist the Commission Chair;

c. Act as corresponding secretary with the Chief Justice of the Supreme Court

and the Governor; and

d. Serve as Acting Chair in the Chair’s absence.

* 1. Four members constitutes a quorum for the transaction of business.
  2. The Office of Court Administrator shall provide administrative support to the Commission including:

1. Maintaining a Commission webpage within the Montana Judicial Branch website for electronically posting documents relating to the recruitment of applicants, solicitation of public comment regarding applicants, and selection of nominees.
2. Distributing news releases regarding Commission activities;
3. Providing information to and responding to inquiries from applicants and the general public;
4. Performing other duties as assigned by the Commission.

**Rule 2. Notice of Vacancy**

2.1 Within ten (10) days of the date of receipt by the Commission of the

notice from the Chief Justice of the Supreme Court that a vacancy has occurred or

an effective date of judicial resignation has been announced, the Office of Court Administrator shall notify media outlets with general statewide circulation and other appropriate

sources that a vacancy has been announced.

2.2 The notice must briefly describe the vacancy, the qualifications required of

applicants for nomination, and the procedure by which eligible persons may apply

to fill the vacancy.

**Rule 3. Applications for Vacancy**

3.1 The Office of Court Administrator shall post to the Commission’s webpage the application required by the Commission for all

vacancies

3.2 Eligible persons may apply for the vacant judicial position by

completing and submitting to the Office of Court Administrator an original signed paper application and an electronic copy of the original application by

the deadline date and time contained in the application . The deadline date must be within forty

(40) days of the Commission’s receipt of the notice provided by the Chief Justice.

3.3 An application will be accepted if the original application is postmarked or otherwise dated by the delivery service on or before the deadline date and the electronic copy has a sent date and time that is on or before the deadline date and time.3.4

The OCA shall post applications timely received to the Commission’s webpage. This posting constitutes the Commission’s only publication of the content of applications. Before posting an application, the OCA shall redact the applicant’s date of birth, home address, and personal phone number.

Rule 4  **Public Disclosure – Privacy -- Exception**

4.1 All meetings, proceedings of the Commission and documents must be open to the

public except when, by a majority vote of the Commission, it is determined that the

demands of individual privacy clearly exceed the merits of public disclosure.

4.2 An applicant who believes that the demands of individual privacy clearly exceed the merits of public disclosure of any information, in addition to these specified items, must submit such information, including any answer to any question(s) in the application, in a separate sealed envelope, expressly asserting his or her personal right of privacy in the space provided for

the answer in the application and referring the Commission to the attached sealed envelope. The Commission then must make its own determination, balancing the asserted privacy right against the merits of public disclosure. The Commission must notify the applicant of any decision to publicly disclose such information five (5) days prior to any disclosure.

4.3 Unless a determination is made by the Commission that the demands of individual privacy clearly exceed the merits of public disclosure, all documents received by the Commission are open to the public and may be viewed by interested parties during normal business hours at the Office of Court Administrator.

**Rule 5~~4~~. Investigation -- Public Comment – Review**

5.1 The individual members of the Commission are authorized to gather information

and investigate the qualifications of all applicants.

52 Members of the public may provide their comments concerning any applicant or

application, and a specific period of public comment will be identified and

noticed. The public comments must be posted to the Commission’s webpage except as provided in Rule 4

45.3 Written public comment constitutes ~~and all supporting~~ documentation relating to the proceedings of the Commission must be open to the public except where the demands of

individual privacy clearly exceed the merits of public disclosure. The procedure

to be followed by any member of the public seeking to assert individual privacy

rights with respect to his or her written comments regarding an applicant is the same as

that set forth in Rule 74.2.

45.4 The Office of Court Administrator shall compile a complete file of public comments received and create an index of such comments. ~~The public comments~~

~~must be posted to the Commission’s webpage except as provided in Rule 4.5.~~

45.5 The Office of Court Administrator may not post the following types of public comment to the Commission’s webpage:

a. Public comment in which the Commission has determined that the demands of individual privacy clearly exceed the merits of public disclosure;

b. Anonymous electronic mail messages, letters, or facsimiles;

c. Public comment containing vulgar or obscene language as determined by the Chair;

d. Public comment in which it appears ~~the author identifies himself or herself a~~is a minor;

e. Court documents, which are submitted with or as ~~attached to~~ public comment and contain unredacted ~~containing third-party~~ personal identifying information, names or information about a minor; or ar confidential as provided by law;~~unless the information is redacted by the person submitting the public comment;~~

f. Electronic mail messages or facsimiles received more than 30 minutes after the submittal deadline; and

g. Written comments received by surface mail if postmarked after the submittal deadline.

**Rule 65. Opportunity for Interview of Applicants**

56.1 The Commission reserves the right to dispense with some or all of the applicant

interviews based upon a review of the applications and public comment.

56.2 The Office of Court Administrator shall notify each applicant to be interviewed at least 10 days prior

to an interview and advise the applicant of the time and place. Interviews are public and must take place in the judicial district where the vacancy occurs.

**Rule 76. Selection of Nominees – Format of Reports**

67.1 Immediately ~~As soon as practical~~ following interviews or following a determination to dispense with interviews as specified in Rule 65, the Commission shall meet to discuss the nominees and qualifications,

~~shall, following discussion,~~ and with the concurrence of at least four (4) members of

the Commission, compile a list of not less than three and not more than five

nominees for submission to the Governor or Chief Justice.

67.2 The Commission shall list the nominees in alphabetical order, certify the

nominees’ qualifications, and provide the written report required by Section 3-1-

1010, MCA.

67.3 The Office of Court Administrator shall submit the Commission’s list of nominees and report to the

Governor or Chief Justice, together with the originals of each nominee’s

application and copies of all letters and written comments received concerning each

nominee. Where the Commission has determined that the  ~~unless the Commission has determined that the~~ demands of individual privacy clearly exceed the merits of public disclosure regarding specific public comment, such comment shall be submitted under seal.

67.4 The Commission shall submit its list of nominees within ninety (90) days of the

Commission’s receipt of the notice of vacancy from the Chief Justice.

**~~Rule 7. Public Disclosure – Privacy -- Exception~~**

~~7.1 All meetings, proceedings of the Commission and documents must be open to the~~

~~public except when, by a majority vote of the Commission, it is determined that the~~

~~demands of individual privacy clearly exceed the merits of public disclosure.~~

~~7.2 At the close of the application period, the Office~~

~~of Court Administrator shall post applications timely received to the Commission’s webpage. This~~

~~posting constitutes the Commission’s only publication of the content of~~

~~applications. Before posting an application, the Office of Court Administrator shall redact the applicant’s date of birth, home address, and home telephone~~

~~number. An applicant who believes that the demands of~~

~~individual privacy clearly exceed the merits of public disclosure of any information,~~

~~in addition to these specified items, must submit such information, including any~~

~~answer to any question(s) in the application, in a separate sealed envelope,~~

~~expressly asserting his or her personal right of privacy in the space provided for~~

~~the answer in the application and referring the Commission to the attached~~

~~sealed envelope. The Commission then must make its own determination,~~

~~balancing the asserted privacy right against the merits of public disclosure. The Commission must~~

~~notify the applicant of any decision to publicly disclose such information five (5)~~

~~days prior to any disclosure.~~

~~7.3 Unless a determination is made by the Commission that the demands of individual privacy clearly exceed the merits of public disclosure, all documents received by the Commission are open to the public and may~~

~~be viewed by interested parties during normal business hours at the Office of Court Administrator.~~

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