

OPEN SESSION AGENDA ITEM

**54-112 JULY 2018
EX COMM ITEM III.B.**

DATE: July 20, 2018

TO: **Members, Board Executive Committee
Members, Board of Trustees**

FROM: Todd Stevens, Board Executive Committee Appointments Liaison
Brandon Stallings, Board Executive Committee Appointments Liaison

SUBJECT: Review Committee of the Commission on Judicial Nominees Evaluation, Annual Appointment of Chair and Members

EXECUTIVE SUMMARY

The Commission on Judicial Nominees Evaluation (JNE) is an agency of the State Bar created by Government Code section 12011.5 for the purposes of evaluating judicial candidates under consideration for appointment by the Governor. Pursuant to statute, prior to exercising judicial appointment authority, the governor is required to submit the names of candidates to the JNE Commission for an investigation and evaluation of the candidates' judicial qualifications. The JNE Commission must report back to the governor within 90 days of the date of submission its rating of the candidate as exceptionally well qualified, well qualified, qualified or not qualified and the reasons for its rating. The State Bar Rules and Procedures governing the JNE Commission) provide for a five-member Review Committee (RJNE) to review, upon request, "not qualified" ratings of the JNE Commission. There are two open positions on RJNE. This report presents the recommendations of the Board Executive Committee's Appointments Liaisons, Todd Stevens and Brandon Stallings, for appointing two new members to RJNE and selecting a Chair.

BACKGROUND

Judicial candidates who are rated by the JNE commission as "not qualified" may request a reconsideration of the rating. RJNE is tasked with determining whether the rating should be rescinded. Requests for reconsideration are assigned by staff on a rotation basis. The assigned RJNE "lead" is responsible for reviewing the JNE Commission investigation record, and recommending an analysis and resolution, which is shared in writing with the other members prior to the meeting. RJNE Meetings are conducted by conference call. On average, there are four to five RJNE meetings per year.

Pursuant to State Bar Rule 7.66(A), included as Attachment A, RJNE is composed of:

- Two members of the Board of Trustees
 - One public (non-lawyer) member

- One lawyer member
- One past member of the JNE Commission
- Two at-large members to be appointed at the discretion of the Board of Trustees

Except for the two Board of Trustees positions, which are named annually by the incoming Board of Trustees Chair, RJNE members serve three-year terms, which expire at the close of the annual meeting. Historically, the terms of the past JNE Commissioner member and the two at-large members were staggered, with one position becoming vacant each year.

The Chair is the titular head of RJNE who may call meetings to order and call for a vote, but who otherwise has no additional duties than that of member. The Chair is filled on a rotating basis by the member in his or her last year on RJNE.

DISCUSSION

In 2017, RJNE Chair Marcia Goodman was asked to serve an additional year as member and Chair. As a result, in 2018, there are two positions to name, instead of one.

The current members of RJNE are:

<u>Member</u>	<u>Public / Lawyer</u>	<u>Position</u>	<u>Year Term Expires</u>
1. Marcia Goodman	Public	Chair, At-Large	2018
2. Diana Kruz	Lawyer	At-Large	2018
3. Armando Rodriguez	Lawyer	Past JNE member	2019
4. Sean SeLegue	Lawyer	Board of Trustees	2018
5. Stacie Spector	Public	Board of Trustees	2018

(See Attachment B, 2017-2018 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE).)

Regarding the Chair position, Mr. Rodriguez, who is in his last year on RJNE, has agreed to serve as Chair. The Appointments Liaisons endorse this selection. Regarding the two open at-large positions, the State Bar received four applications. The at-large positions may be filled by public (non-lawyer) or lawyer members. In terms of qualifications, historically it has been desirable for RJNE members to have attorney or other legal-related experience, knowledge of the judiciary, strong analytical skills and ability to assess confidential information in a thorough and objective manner. The Appointments Liaisons considered the standard appointments criteria in arriving at their recommendations, including, but not limited to, diversity of background, experience, perspectives and geography; length of time in and type of practice/profession/vocation; accomplishments and commitment to volunteer work; personal recommendations; educational background; prior experience in the subject matter of the sub-entity.

After a thorough review of the application materials, the Appointments Liaisons conferred with one another and with staff, and, based on that review, recommends the following applicants (in alphabetical order)¹ for appointment to the two open at-large positions on RJNE.

(1) **Angelique G. Bonanno**

(2) **David K. George**

¹ The other two applicants are Robert C. Brandt and Nancy Ann Young. In a separate agenda item, Robert C. Brandt is being recommended for appointment to the JNE Commission.

The Appointments Liaisons believe that Ms. Bonanno's and Mr. George's past experience on the JNE Commission will serve them well, and provide a continued JNE Commission presence on RJNE after the departure of Mr. Rodriguez at the end of his term in 2019. Additionally, both applicants would bring a diversity of perspectives and experience to RJNE. That Mr. Rodriguez would be serving as a lawyer member, rather than a public (non-lawyer) member, presents no problem. The public (non-lawyer) representation on RJNE is provided for and guaranteed by one of the two Board of Trustee positions, and there is no requirement that RJNE include two public (non-lawyer) members as currently constituted.

Because Ms. Bonanno and Mr. George have been found to be exceptionally well-qualified to serve RJNE, the Appointments Liaisons recommend their appointment to the two at-large open positions. Please see Attachment C, Proposed 2018-2019 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE).

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATION

It is recommended that the Board Executive Committee and Board of Trustees approve the following resolution:

RESOLVED, that upon recommendation of the Board Executive Committee, the Board of Trustees approve appointment of Armando Rodriguez as Chair of the Review Committee of the Commission on Judicial Nominees Evaluation, for a one-year term, commencing at the close of the 2018 State Bar annual meeting, and expiring at the close of the 2019 State Bar annual meeting, or until further order of the Board of Trustees, whichever occurs earlier; and it is

FURTHER RESOLVED, that upon recommendation of the Board Executive Committee, the Board of Trustees approve appointment of Angelique G. Bonanno and David K. George to fill the two at-large positions on the Review Committee of the Commission on Judicial Nominees Evaluation, each for a three-year term, commencing at the close of the 2018 State Bar annual meeting, and expiring at the close of the 2021 State Bar annual meeting, or until further order of the Board of Trustees, whichever occurs earlier.

ATTACHMENT(S) LIST

- A.** State Bar Rules of the Commission on Judicial Nominees Evaluation, Rule 7.66 – Review Committee

- B.** 2017-2018 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE)
- C.** Proposed 2018-2019 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE)

TITLE 7. DIVISION 1

Rules of the Commission on Judicial Nominees Evaluation

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Rule 7.66 Review committee

- (A) To review candidates' requests for reconsideration of a commission rating, the Board of Governors must appoint a five-member review committee consisting of two members of the Board of Trustees, one of whom shall be a public member and one an attorney member, one past member of the commission and two at large members to be appointed at the discretion of the Board of Trustees. Neither of these at large positions will be current members of the Board of Trustees.
- (B) The review committee has absolute discretion to rescind the opinion of the commission if it has good cause to believe that
 - (1) violation of these rules has materially affected the commission's rating;
 - (2) conflict of interest or bias has affected the rating;
 - (3) an inadequate or biased mailing list was used; or
 - (4) new evidence, which the candidate had no reasonable opportunity to present, could have changed the rating; or
 - (5) after review of the candidate's record, the commission's rating of not qualified is not supported by substantial evidence.
- (C) If a member of the review committee recuses himself or herself in a particular matter, the Executive Director of the State Bar must assign the matter to a temporary member who has previously served on the review committee.

Rule 7.66 adopted July 17, 2009; amended effective November 10, 2010, amended effective January 2012.

2017-2018 Committee
Review Committee of the Commission on Judicial Nominees Evaluation
(Appointed/Reappointed by the Board of Trustees, July 13, 2017)

<i>POSITION</i>	<i>MEMBER</i>	<i>CITY</i>	<i>MEMBER'S TERM EXPIRES</i>
REAPPOINT/CHAIR	Marcia L. Goodman	Long Beach	2018
CONTINUING MEMBERS	Diana B. Kruze	San Francisco	2018
	Armando Rodriguez	Alhambra	2019
BOARD LAWYER MEMBER	Sean M. SeLegue	San Francisco	2018
BOARD PUBLIC MEMBER	Stacie Spector	El Cajon	2018

**Proposed: 2018-2019 Committee
Review Committee of the Commission on Judicial Nominees Evaluation**

(Appointed/Reappointed by the Board of Trustees, July 20, 2018)

Terms of the officers and new members begin at the close of the 2018 State Bar annual meeting (September 13-14, 2018). The officer terms are one year and expire at the close of the 2019 State Bar annual meeting (September 19-20, 2019). *Member terms expire at the close of the State Bar annual meeting in the year indicated below.*

POSITION	MEMBER	CITY	MEMBER'S TERM EXPIRES
REAPPOINT/CHAIR	Armando Rodriguez	Alhambra	2019
APPOINT NEW MEMBERS	Angelique G. Bonanno	Rancho Cucamonga	2021
	David K. George	Oakland	2021
BOARD OF TRUSTEES LAWYER MEMBER	[to be appointed by 2018-2019 BOT Chair]		2019
BOARD OF TRUSTEES PUBLIC MEMBER	[to be appointed by 2018-2019 BOT Chair]		2019