



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

54-112 JULY 2019

BOARD EXECUTIVE COMMITTEE III.B

DATE: July 11, 2019

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

FROM: Mark Broughton, Appointments Liaison, Board Executive Committee
Brandon Stallings, Appointments Liaison, Board Executive Committee

SUBJECT: Review Committee of the Commission on Judicial Nominees Evaluation -
Annual Appointment of Members and Officer

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 purpose 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. The JNE Commission conducts an investigation of the candidates' judicial qualifications and rates the candidates as exceptionally well qualified, well qualified, qualified or not qualified. State Bar Rules and Procedures governing the JNE Commission provide for a five-member Review Committee (RJNE) to review, upon request, "not qualified" ratings given by the JNE Commission.

In 2019, there is one vacancy on RJNE. This agenda item presents the recommendation of the Board Executive Committee's Appointments Liaisons, Mark Broughton and Brandon Stallings, for filling the vacancy and appointing a new chair.

BACKGROUND

Judicial candidates who are rated by the JNE Commission as "not qualified" (NQ) 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 RJNE is tasked with determining whether the rating should be rescinded.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 to RJNE members on a rotational basis. The assigned RJNE "lead" is responsible for reviewing the JNE Commission investigation

record, and providing an analysis of the issues and a recommendation to uphold or rescind the NQ rating in a written report. The report is shared by e-mail 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), RJNE is composed of:

- Two members of the Board of Trustees (BOT)
 - One public (non-lawyer) member
 - One lawyer member
- One past member of the JNE Commission
- Two at-large members appointed at the discretion of the BOT

(See Attachment A, State Bar Rules of the Commission on Judicial Nominees Evaluation, Rule 7.66 – Review Committee.)

Except for the two BOT positions, which are filled annually by the BOT Chair at the commencement of the new BOT year, RJNE members serve three-year terms. The RJNE year follows the BOT year, and runs from September to September. 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. The Chair calls the meetings to order, conducts the votes, and may mentor less senior members. The Chair receives assignments on the same rotational basis as other members. The RJNE Chair position rotates each year to the most senior non-BOT member. Unfortunately, the staggering of the terms was thrown off in 2017 and, as a result, there are two RJNE members who are the most senior members of RJNE. The re-staggering of the terms will be addressed at the next opportunity in 2021 when the terms of these two senior members expire.

DISCUSSION

Current RJNE membership information is contained in the chart below. There is one vacancy to fill created by the expiration of the term of current Chair Armando Rodriguez in September 2019.

	Member	Public/Lawyer	Position	Expiration
1.	Trustee Sean SeLegue	Lawyer	BOT	2019
2.	Trustee Debbie Manning	Public	BOT	2019
3.	Chair Armando Rodriguez	Lawyer	Past JNE	2019
4.	Member Angelique Bonanno	Lawyer	At-Large	2021
5.	Member David George	Lawyer	At-Large	2021

(See Attachment B, 2018-2019 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE).)

Regarding the Chair position, as mentioned above, the Chair position rotates annually to the most senior RJNE member. Because the remaining non-BOT members Angelique Bonanno and David George have the same seniority, with terms expiring at the same time in 2021, they have agreed to the following arrangement: Member George will be the 2019-2020 RJNE Chair and Member Bonanno will be the 2020-2021 Chair.

Regarding the one vacancy, 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. Standard appointments criteria were considered in arriving at these 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; and prior experience in the subject matter of the sub-entity.

The State Bar received four applications. After a thorough review of the application materials and interviews of the candidates, and after conferring with one another and with staff, we recommend Jody Nuñez¹ for appointment to fill the vacancy created by the expiration of Chair Rodriguez's term in September 2019.

(See Attachment C, Proposed 2018-2019 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE).)

Ms. Nuñez served on the JNE Commission as a member, Vice-Chair and Chair from 2013-2016. She has practiced criminal law as a public defender at the Alameda County Office of Public Defender for over 31 years. She currently holds the title of Senior Assistant Public Defender and is the Supervisor of the East County Branch Office. Previously, she was the Supervisor of the Homicide Team. Ms. Nuñez is civically engaged, eager to find meaningful volunteer work and committed to improving the practice of law and the bench; she understands the need for diversity on the bench. Having been a former JNE Commission member and officer, she appreciates the importance of the judicial selection and evaluation process. She considers her participation on the JNE Commission one of the most rewarding experiences of her life, an experience that will benefit her greatly on RJNE. Ms. Nuñez appreciates the important role of RJNE as a check on the JNE Commission to ensure that NQ ratings are justified.

FISCAL/PERSONNEL IMPACT

None

¹ Of the remaining three applicants, one applicant, Maxwell Pritt, withdrew his application because he currently serves on the JNE Commission. The JNE Commission year and the RJNE year overlap by seven months. The overlap precludes Mr. Pritt from being eligible to serve on RJNE. The remaining two applicants, in alphabetical order, are Ahtossa Fullerton and Ann Park.

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

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 the appointment of David George as Chair of the Review Committee of the Commission on Judicial Nominees Evaluation, for a one-year term, commencing at the close of the September 2019 meeting of the Board of Trustees on September 19-20, 2019, and expiring at the close of the September 2020 meeting of the Board of Trustees on September 17-18, 2020, 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 the appointment of Jody Nuñez to fill the position of past member of the Commission on Judicial Nominees Evaluation on the Review Committee of the Commission on Judicial Nominees Evaluation, for a three-year term, commencing at the close of the September 2019 meeting of the Board of Trustees on September 19-20, 2019, and expiring at the close of the September 2022 meeting of the Board of Trustees 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.** 2018-2019 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE)
- C.** Proposed 2019-2020 Review Committee of the Commission on Judicial Nominees Evaluation (RJNE)

TITLE 7. DIVISION 1

Rules of the Commission on Judicial Nominees Evaluation

* * *

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.



2018-2019 Committee
Review Committee of the Commission on Judicial Nominees Evaluation
(Appointed/Reappointed by the Board of Trustees, July 20, 2018)

POSITION	MEMBER	CITY	TERM EXPIRATION
CONTINUING MEMBER/CHAIR	Armando Rodriguez	Alhambra	2019
NEW MEMBER	Angelique G. Bonanno	Rancho Cucamonga	2021
NEW MEMBER	David K. George	Oakland	2021
BOARD OF TRUSTEES LAWYER MEMBER	Sean M. SeLegue	San Francisco	2019
BOARD OF TRUSTEES PUBLIC MEMBER	Debbie Y. Manning	Sacramento	2019



Proposed: 2019-2020 Committee
Review Committee of the Commission on Judicial Nominees Evaluation
(Appointed/Reappointed by the Board of Trustees, July 11, 2019)

Officer and new member terms begin at the close of the September 2019 State Bar Board of Trustees meeting (September 19-20, 2019). Officer terms are one year and expire at the close of the September 2020 State Bar Board of Trustees meeting (September 17-18, 2020). *Member terms expire at the close of the State Bar Board of Trustees meeting in the year indicated below.*

POSITION	MEMBER	CITY	TERM EXPIRATION
CHAIR/CONTINUING MEMBER	David K. George	Oakland	2021
CONTINUING MEMBER	Angelique G. Bonanno	Rancho Cucamonga	2021
NEW MEMBER	Jody A. Nunez	Oakland	2022
BOARD OF TRUSTEES LAWYER MEMBER	[to be appointed by 2019-2020 BOT Chair]		2020
BOARD OF TRUSTEES PUBLIC MEMBER	[to be appointed by 2019-2020 BOT Chair]		2020