



The State Bar of California

OPEN SESSION

AGENDA ITEM

54-113 MARCH 2021

BOARD EXECUTIVE COMMITTEE III.E

DATE: March 18, 2021

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

FROM: Sarah L. Cohen, Attorney, Mission Advancement & Accountability Division

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

EXECUTIVE SUMMARY

The Commission on Judicial Nominees Evaluation (JNE) is a subentity 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 for evaluation. The JNE Commission investigates the candidates' judicial qualifications and rates the candidates as Exceptionally Well Qualified, Well Qualified, Qualified, or Not Qualified. State Bar Rules governing the JNE Commission provide for a five-member Review Committee (RJNE) to review, upon request, ratings of Not Qualified.

There will be no vacancies on RJNE in 2021. The only action requested of the Board of Trustees is to appoint a new chair.

BACKGROUND

Judicial candidates who are rated Not Qualified by the JNE Commission may request reconsideration of the rating by RJNE. RJNE is tasked with determining whether the rating should be rescinded.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 record of the JNE Commission investigation and providing an analysis of the issues, as well as a recommendation

to uphold or rescind the rating. 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 (nonlawyer) 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.)

Current RJNE membership:

	Member	Public/Lawyer	Position	Expiration
1.	Trustee José Cisneros	Public	BOT	2021
2.	Trustee Joshua Perttula	Lawyer	BOT	2021
3.	Member Angelique Bonanno	Lawyer	At-Large	2022
4.	Member David George	Lawyer	At-Large	2022
5.	Member Jody Nuñez	Lawyer	Past JNE Com member	2023

DISCUSSION

The chair is the titular head of RJNE. The chair calls the meetings to order, conducts the votes, mentors less-senior members, and makes presentations to the JNE Commission at the annual orientation in January and the October meeting. The chair receives “lead” assignments on the same basis as other RJNE members. The chair position rotates each year to a non-trustee member.

In the past, the chair position has been held by the most senior member of RJNE. Given recent changes in term length from three to four years, however, both senior members of RJNE, Angelique Bonanno and David George, have already served as chair. Ms. Bonanno is the current chair for the 2020–2021 year, and Mr. George served as chair during the 2019–2020 year. Ms. Nuñez is next in line and has agreed to serve as chair in the 2021–2022 year.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES OF THE STATE BAR

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None - core business operations

RECOMMENDATIONS

Should the Board Executive Committee concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board Executive Committee recommends that the Board of Trustees appoints Jody Nuñez 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 2021 meeting of the Board of Trustees, 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.

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, upon recommendation of the Board Executive Committee, appoints Jody Nuñez 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 2021 meeting of the Board of Trustees, 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

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.