



The State Bar *of California*

OPEN SESSION

AGENDA ITEM

50-2 JANUARY 2023

BOARD EXECUTIVE COMMITTEE III.A

DATE: January 19, 2023

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

FROM: Bridget Gramme, Deputy Chief of Programs
Ellen Louie, Commission on Judicial Nominees Evaluation Program Supervisor

SUBJECT: Appointment of Additional New Member and Alternates to the 2023
Commission on Judicial Nominees Evaluation (JNE)

EXECUTIVE SUMMARY

The JNE Commission has experienced some unexpected recent vacancies, including a public member and a retired judicial officer member. While we were able to fill the public member vacancy with an individual from the alternates list that the Board has already approved, the alternates list does not currently contain a retired judge. Accordingly, in consultation with JNE leadership, and approval from the Board Appointments Liaisons, staff proposes that the Board approve a retired judicial officer to fill the current vacancy, and two additional alternates—a public member and another retired judicial officer—so that we may fill any additional vacancies in these categories without further Board approval in the coming year should the need arise.

BACKGROUND

The JNE Commission is an agency of the State Bar created under Government Code section 12011.5 for the purpose of evaluating judicial candidates nominated by the governor for appointment to the bench. Pursuant to statute, prior to exercising judicial appointment

authority, the governor is required to submit the names of the candidates under consideration for appointment to the JNE Commission (via an assignment letter) for investigation and evaluation of the candidates' judicial qualifications. The investigation is very work intensive, and entails review and analysis of returned confidential comment forms to individuals who may know the candidate, telephone calls with those who returned the forms and provided a rating of the candidate, delivery of negative matters (criticisms) to the candidate, an interview of the candidate, and the drafting of a report summarizing the investigation with a recommended rating for the commission's consideration. After the investigations, the commission meets to discuss and rate the candidates as exceptionally well qualified, well qualified, qualified, or not qualified. The ratings are provided upon conclusion of the meeting and a narrative report for each candidate is provided shortly thereafter. This cycle of investigation and evaluation repeats every 90 days. On average, each assignment letter contains the names of approximately 30 candidates.

The commission is composed of both public members (nonattorneys) and lawyer members, up to a maximum of 38 members. State Bar Rules require that one of the lawyer members be a former judicial officer, preferably of an appellate court. In the event that a newly appointed member is unable to accept their appointment or resigns, an alternate is selected to fill the vacancy and finish the duration of the resigned member's term.

At its July 2022 meeting, the Board appointed a slate of 13 new commissioners who will serve a three-year term from 2023–2026. They must attend the new member orientation on January 27–28, 2023; “shadow” a candidate investigation; observe the April 14–15, 2023, meeting (the final meeting of the 2022 JNE Commission); and participate as full-fledged voting commissioners beginning at the June 16–17, 2023, meeting (the first meeting of the 2023 JNE Commission). The Board also approved 10 alternates for the 2023 class at its July meeting, including two public members and eight attorney members.

In the intervening months, two vacancies have arisen: a public member with a term expiring in 2024, and a judicial officer with a term expiring in 2025. A public member from the list of alternates has been selected to fill that slot, leaving only one public member on the list of the alternates. No judicial officers were included on the list of approved alternates.

After consulting with JNE leadership, staff recommends that the Board appoint Alan Jaroslovsky to fill the former judicial officer role, and add a public member and a retired judicial officer to the list of alternates so that future vacancies in these categories may be filled without further board approval should the need arise.

Staff met with Board appointments liaisons Melanie Shelby and Brandon Stallings on January 9, 2023, and both have stated their support of staff's recommendations.

DISCUSSION

After learning of the pending vacancy for a retired judicial officer, 2022 JNE Chair Adam Hofmann and Vice-Chair Justin Palmer (JNE Leadership) returned to the pool of applicants for the 2023 JNE Commission, which included three former bench officers, and considered: (1) leadership in their areas of practice or employment; and (2) diversity of background and experience. In evaluating all applicants, JNE Leadership considered letters of recommendation and other endorsements, particularly from members of the judiciary and current and former commissioners.

Following that review, JNE Leadership recommends former judicial officer Alan Jaroslovsky, a retired judge who served for 30 years on the U.S. Bankruptcy Court for the Northern District of California, to fill the current vacancy. The term would expire at the close of the last business meeting of the JNE Commission in April 2025, or until further order of the Board whichever occurs earlier. Staff concurs with this recommendation, as do the Board appointments liaisons.

PROPOSED ADDITIONAL 2023 ALTERNATES

The commission also seeks Board approval from the Board to add two 2023 applicants to the 2023 JNE Commission alternates list:

- Former Judicial Officer: Hon. Andrew Kauffman, (Ret.) (current mediator/arbitrator, served 16 years on Los Angeles Superior Court bench)
- Public Member: Andy Yang (director of development at University of California, San Francisco)

Staff also concurs with these recommendations, as do the Board appointments liaisons.

Attachment A provides a revised Roster of the 2023 JNE commission, including the proposed appointments recommended here. As stated above, when reviewing applications for appointment, the commission not only seeks diversity in professional background but also in gender, age, race, nationality, ethnicity, geographic region, sexual orientation, disability, and life experience. Attachment B contains a worksheet demonstrating the diversity of the proposed 2023 commission.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 4. Protect the Public by Engaging Partners

c. 3. Engage diverse voices in the development and evaluation of State Bar policy.

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 appoint Hon. Alan Jaroslovsky (Ret.) to complete the vacant term for a retired judicial officer on the 2022 JNE Commission, commencing immediately, and expiring at the close of the last business meeting of the 2022 JNE Commission in April 2025, or until further order of the Board whichever occurs earlier; and it is

FURTHER RESOLVED, that the Board Executive Committee recommends that the Board of Trustees add Hon. Andrew Kauffman, (Ret.) and Andy Yang to the approved list of alternates for the 2023 JNE Commission.

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 Hon. Alan Jaroslovsky (Ret.) to complete the vacant term for a retired judicial officer on the 2022 JNE Commission, commencing immediately, and expiring at the close of the last business meeting of the 2022 JNE Commission in April 2025, or until further order of the Board whichever occurs earlier; and it is

FURTHER RESOLVED, the Board of Trustees adds Hon. Andrew Kauffman, (Ret.) and Andy Yang to the approved list of alternates for the 2023 JNE Commission.

ATTACHMENTS LIST

- A.** Judicial Nominees Evaluation Commission Roster
- B.** Diversity Demographic Worksheet

ATTACHMENT A

**Judicial Nominees Evaluation Commission Roster of Current Members
and Proposed Members**

First Name	Last Name	Attorney Member	Public Member	Ret. Judicial Officer	Term Expiration
Current 2023 Composition					
Chair, Justin	Palmer	✓			April 2024
Ugochi	Anaebere-Nicholson	✓			April 2024
Caley	Anderson	✓			April 2025
Kirstin	Ault	✓			April 2026
Matthew	Barnachia		✓		April 2025
Vice-Chair, Chhaya	Malik	✓			April 2024
Andre	Bollinger	✓			April 2024
Aundrea	Brown	✓			April 2024
Julia	Choe	✓			April 2024
Tara	Doss	✓			April 2025
Frine	Eger-Gelston	✓			April 2025
Noemi	Esparza	✓			April 2025
Diana	Garrido	✓			April 2024
Joseph	Goldstein-Breyer	✓			April 2026
Stacey	Guillory	✓			April 2024
Caroline	Hahn	✓			April 2026
Stephen	Hamilton	✓			April 2026
Hon. Brenda	Harbin-Forte, (Ret.)			✓	April 2024
Theresa	Hurley		✓		April 2024
Mack	Jenkins, Sr.		✓		April 2025
Jeanine	Kraybill		✓		April 2025

First Name	Last Name	Attorney Member	Public Member	Ret. Judicial Officer	Term Expiration
Hon. James	Lambden, (Ret.)			✓	April 2026
Roger Chris	Lim	✓			April 2026
Melissa	Mandel	✓			April 2025
Esteban	Mendoza	✓			April 2026
Sandra Ai	Mori	✓			April 2024
Antoinette	Morris	✓			April 2026
Kevin	Nichols		✓		April 2026
Cuautemoc	Ortega	✓			April 2026
Lorena	Peñaloza	✓			April 2025
Jehan	Pernas	✓			April 2026
Michelle	Pincus	✓			April 2026
Francesca	Serrano	✓			April 2024
Linda	Soles		✓		April 2026
David	Sutton	✓			April 2025
Ryan	Tacorda	✓			April 2025
Corey	Weber	✓			April 2025
Michael	Yraceburn	✓			April 2024
Proposed New Member					
Hon. Alan	Jaroslovsky (Ret.)			✓	April 2025
Proposed 2023 Alternates					
Tara	Amin	✓			--
Hon. Andrew	Kauffman, (Ret.)			✓	--
Andy	Yang		✓		--
Kim	Tran	✓			--
Sara	Haji	✓			--
Erin	Petrig	✓			--

First Name	Last Name	Attorney Member	Public Member	Ret. Judicial Officer	Term Expiration
Abbas	Hadjian	✓			--
Khalil	Ferguson		✓		--
Carly	Bittman	✓			--
Dale	Kiken	✓			--
Michael	Friedman	✓			--

-- Denotes not applicable unless a vacancy is created due to a midterm resignation, at which point an alternate would be selected to fill that vacancy.

Commission on Judicial Nominees Evaluation (JNE)

Membership and Composition

At least 27 and no more than 38 members. To the extent feasible, at least 80 percent of the members must be active, licensed attorneys in good standing, and the balance public members. One of the licensed attorneys must be a former judge, preferably of an appellate court. (Government Code § 12011.5; State Bar Rules Title 7, Division 1)

Approval of JNE appointment recommendation would result in 85% attorney members and 15% nonattorney members.

Current JNE Composition

Attorney/Nonattorney		Gender		Race/ethnicity		Sexual orientation		Disabilitites		Age group	
Attorney	84%	Female	53%	White	29%	Heterosexual	89%	No	84%	40-49	40%
Nonattorney	16%	Male	47%	Black	26%	LGBTQIA+	11%	Yes	8%	30-39	21%
				Multiracial	19%			Not answered	8%	50-59	18%
				Asian	13%					60-69	13%
				Hispanic	13%					not answered	8%

New JNE composition with the recommended candidate demographics

Attorney/Nonattorney		Gender		Race/ethnicity		Sexual orientation		Disabilitites		Age group	
Attorney	85%	Female	51%	White	34%	Heterosexual	87%	No	84%	40-49	38%
Nonattorney	15%	Male	49%	Asian	20%	LGBTQIA+	10%	Yes	8%	30-39	21%
				Black	20%	Not answered	3%	Not answered	8%	50-59	18%
				Multiracial	17%					60-69	13%
				Hispanic	9%					not answered	10%