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**Judicial Selection Methods in the
State of New York:
A Guide to Understanding and Getting
Involved in the Selection Process**

COUNCIL ON JUDICIAL ADMINISTRATION

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NEW YORK CITY BAR ASSOCIATION
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JUDICIAL SELECTION METHODS IN THE STATE OF NEW YORK: A GUIDE TO UNDERSTANDING AND GETTING INVOLVED IN THE SELECTION PROCESS¹

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¹The Committee wishes to thank the Special Committee to Encourage Judicial Service for allowing the use of its manual "How to Become a Judge" as our starting point.

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I. Introduction

There are over 1,200² judges³ appointed or elected under the laws of New York State, and over 150 federal court judges currently sit on the bench in New York State.⁴ Although the state court's directory of judges provides a brief biography of all judges sitting in New York State and local courts⁵ and the relevant federal district court websites include each district judge's biography and courtroom procedures,⁶ these resources provide little, if any, insight into the corollary questions: How are judges selected and how can lawyers get involved in the selection processes?

This guide, "Judicial Selection Methods in the State Of New York: A Guide to Understanding and Getting Involved in the Selection Process," is intended to help answer these questions.

A wide variety of opportunities to participate abound, either by voicing an opinion to the appointing authority, for example mayor or governor, running for election as a delegate to a judicial convention, or becoming a member of a screening panel.⁷

²<http://www.nycourts.gov/reports/annual/pdfs/2006annualreport.pdf>. Does not include Housing Court.

³The term "judge" is used generically throughout this Guide. Readers are urged to consult the appropriate resource to confirm how to properly address a judge. For example, judges elected to the New York State Supreme Court are "justices." N.Y. Const. Art. VI § 20(a).

⁴In addition, there are 2,200 Town and Village courts or "justice courts" outside of New York City. "These courts have jurisdiction over a broad range of matters, including vehicle and traffic matters, small claims, evictions, civil matters and criminal offenses." <http://www.nycourts.gov/courts/townandvillage>.

⁵<http://www.nycourts.gov/judges/directory.shtml>.

⁶<http://www.fjc.gov/servlet/nAsearch?lname>. For the SDNY, <http://www.nysd.uscourts.gov/judges.php>.

⁷ On January 19, 2012, the New York City Bar Association in conjunction with the New York State Bar Association, Asian American Bar Association of New York, Association of Black Women Attorneys, Dominican Bar Association, Korean American Lawyers Association of Greater New York, City Bar's Committee to Encourage Judicial Service, Minorities in the Courts Committee, and Minorities in the Profession Committee, New York County Lawyers' Association Task Force on Judicial Selection, Nigerian Lawyers Association, Metropolitan Black Bar Association of New York, Puerto Rican Bar Association of New York, and the South Asian Bar Association of New York hosted a program entitled "Demystifying the Judicial Screening Process," with the same objective -- to encourage participation in the process of selecting, electing, and appointing judges.

The New York City Bar Association (“City Bar”) encourages interested attorneys and members of the public to participate in the process of selecting judges.⁸ Diverse participation is good for the process of selecting judges. Greater participation by individuals brings transparency to the process and promotes public confidence in our courts. This guide is intended to encourage such participation in the process.⁹ Beginning with a brief summary of the different methods for selecting judges for each court, this guide sets forth ways that attorneys and others can participate in judicial selection. Consistent with the City Bar’s jurisdiction, this guide focuses on judges in New York City.

Much of the information in this guide is subject to change. The guide is current through October 23, 2013.

II. Courts and Their Selection Processes

A. Federal Courts¹⁰

1. Article III Judges: Second Circuit and District Judges

The U.S. Constitution provides in Article III, Section 1, “The Judicial Branch, Judicial Powers:”

The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior.

United States Court of Appeals and District Court judges are appointed by the President, with the advice and consent of the Senate.¹¹ The President appoints 13

⁸Judicial election reform has been a priority of the City Bar since its birth in 1870. George Martin, *Causes and Conflicts: The Centennial History of the Association of the Bar of the City of New York 1870 - 1970* (1977). George Martin, *Making Sure We are True to Our Founders: The Association of the Bar of the City of New York 1970 - 1995* (1997).

⁹For those readers interested in becoming a judge, see the City Bar’s “How to Become a Judge.” http://www.nycbar.org/pdf/report/become_a_judge.pdf.

¹⁰ For a diagram of the structures of the federal courts, see <http://www.uscourts.gov/educational-resources/get-informed/federal-court-basics/structure-federal-courts.aspx>

¹¹U.S. Const. Art. II, § 2 (2).

judges for the Second Circuit,¹² 28 district judges for the Southern District of New York (“SDNY”),¹³ and 15 district judges for the Eastern District of New York (“EDNY”).¹⁴ Appointments are for the judge’s lifetime. Appointments to federal judgeships historically have been made at the suggestion of a United States Senator from the state within the territorial jurisdiction of the court.¹⁵

2. Magistrate Judges

Duties assigned to magistrate judges vary considerably from court to court. Magistrate judges may preside over federal misdemeanor cases, preliminary matters in felony cases, and are usually the first judicial officer a criminal defendant sees after arrest or indictment. In most districts, magistrate judges also handle pretrial motions and hearings in civil cases and felony criminal cases, which are eventually turned over to district judges for final disposition.

Vacancies or positions as magistrate judges in the SDNY¹⁶ and EDNY¹⁷ (and instructions to applicants for submission of their qualifications) are announced on the court’s website and in the New York Law Journal as such vacancies arise. The term is eight years.¹⁸

Members in good standing of the bar for at least five years are eligible to apply to be a magistrate judge.¹⁹ Competence to perform the duties of the office is determined by the appointing court.²⁰

¹²28 U.S.C. § 44(a). The jurisdiction of the Second Circuit is New York, Connecticut, and Vermont. In addition, Federal judges, unlike state judges, may take "senior status" rather than face mandatory retirement.

¹³28 U.S.C. § 133. The jurisdiction of the SDNY includes Bronx, Dutchess, New York, Orange, Putnam, Rockland, Sullivan, and Westchester counties. 28 U.S.C. § 112(b).

¹⁴28 U.S.C. § 133. The jurisdiction of the EDNY includes Kings, Nassau, Queens, Richmond, and Suffolk counties. 28 U.S.C. § 112(c).

¹⁵David S. Law, *Appointing Federal Judges: The President, The Senate, and The Prisoner’s Dilemma*. 26 *Cardozo L. Rev.* 479 (2005).

¹⁶The SDNY has 15 magistrates.

¹⁷The EDNY has 16 magistrates.

¹⁸28 U.S.C. § 631(e).

¹⁹28 U.S.C. § 631(b)(1).

²⁰28 U.S.C. § 631(b)(2).

3. Bankruptcy Judges

Bankruptcy judges may hear and determine all cases arising in or related to the U.S. Bankruptcy Code.²¹

The United States Court of Appeals for the Second Circuit appoints bankruptcy judges for the SDNY and EDNY.²² Vacancies or positions are announced in the New York Law Journal and the website for the Second Circuit as positions arise. The term is 14 years.²³

B. State Courts²⁴

1. Court of Appeals

The Court of Appeals, New York State's highest court, is composed of a Chief Judge and six Associate Judges, each appointed to a 14-year term.²⁵ New York's highest appellate court was established to articulate statewide principles of law in the context of deciding particular lawsuits. The Court thus generally focuses on broad issues of law as distinguished from individual factual disputes.

The jurisdiction of the Court of Appeals is limited to the review of questions of law except where the Appellate Division, on reversing or modifying a final or interlocutory judgment in an action or order, finds new facts and a final judgment and a final order pursuant thereto is entered.²⁶

Appointment is by the Governor from a list of nominees prepared by the Commission on Judicial Nomination ("Commission"), with the advice and consent of the State Senate.²⁷ Eligibility requirements include residence in New York State and admission to practice as an attorney in New York State for at least ten years.²⁸ Vacancies and unexpired terms are filled by appointments made in the same manner as original appointments.²⁹ The Commission publishes notices of vacancies and application information locally in the New York Law Journal.

²¹28 U.S.C. § 157.

²²28 U.S.C. § 152(a).

²³28 U.S.C. § 152(a)(1)(b).

²⁴Annexed as Appendix 1 is a diagram of the New York State Court system.

²⁵N.Y. Const. Art. VI § 2(a).

²⁶N.Y. Const. Art. VI § 3(a).

²⁷N.Y. Const. Art. VI § 2(e).

²⁸*Id.*

²⁹N.Y. Const. Art. VI § 2(f).

2. Appellate Divisions: First and Second Departments³⁰

The jurisdiction of the Appellate Division includes appeals from judgments or orders as to which appeal is authorized, from the Supreme Court, Surrogate's Court, Appellate Term of the Supreme Court in civil matters, Family Court, Court of Claims, and County Courts.³¹ Appellate Division Justices are appointed by the Governor of the State of New York who selects them from among the Supreme Court Justices. To be eligible for appointment a Justice must first be elected to Supreme Court. A majority of associate Justices also must be residents of the Departments in which they serve.³² The term for the Justices is until the expiration of his/her term as Supreme Court Justice.³³

3. Appellate Terms

The Appellate Term hears appeals from Civil Court and convictions in New York City Criminal Court.³⁴

The Appellate Term is composed of three to five elected Supreme Court Justices designated by the Chief Administrator of the Courts with the approval of the presiding justice of the appropriate Appellate Division.³⁵

4. Court of Claims

The 17 originally authorized judges of the Court of Claims are designated "Part A Judges" and have jurisdiction over claims against the State for the appropriation of any real or personal property, breach of contract, torts of state officers and employees committed while acting as such, claims for damages against the State for unjust conviction and imprisonment, and special proceedings to distribute moneys pursuant to Eminent Domain Procedure Law § 304(E).³⁶

A specified number of additional Court of Claims judges, known as "Part B Judges," may be appointed.³⁷ Most of the additional "Part B" Court of Claims judges

³⁰See Appendix 2 for map of departments.

³¹N.Y. C.P.L.R. Art. 57; N.Y. Const. Art. VI § 5; N.Y. Family Court Act § 1111; N.Y. Ct. Cl. Act § 24.

³²N.Y. Const. Art. VI § 4(f).

³³N.Y. Const. Art. VI § 4(c).

³⁴N.Y. Const. Art. VI § 8(a), (d).

³⁵N.Y. Const. Art. VI § 8(a).

³⁶Court of Claims Act §§ 2, 3(3-a), 9(2).

³⁷Court of Claims Act § 2(2)(b)-(d).

serve as acting judges of the Supreme Court, Criminal Term.³⁸

Court of Claims judges are appointed by the Governor with the consent of the State Senate.³⁹ Eligibility requirements include admission to practice as an attorney in New York with at least ten years experience in practice.⁴⁰ The term is nine years.⁴¹ Vacancies, other than by expiration of term, are filled for the unexpired term in the same manner as an original appointment.⁴²

5. Supreme Court

The Supreme Court has general original jurisdiction in law and equity. The Appellate Term and Appellate Division of the Supreme Court have appellate jurisdiction.

Eligibility requirements include that a Supreme Court Justice must be admitted to practice as an attorney in New York for a minimum of ten years.⁴³

Supreme Court Justices are elected to 14-year terms. A Supreme Court Justice may serve until December 31 of the year in which he or she reaches age 70, and may thereafter perform duties as a Supreme Court Justice if it is certified that his or her services are necessary to expedite the business of the court, and that he or she is physically and mentally competent to fully perform the duties of such office. Certification is valid for a two-year term and may be extended for up to two additional two-year terms, but in no event beyond December 31 in the year in which he or she reaches age 76.⁴⁴ Judges who apply for certification appear before the NY City Bar Association's Judiciary Committee.

Supreme Court Justices are elected by judicial district.⁴⁵ New York State is divided into 13 judicial districts. The following judicial districts are located in New York City:⁴⁶ First District - Manhattan (New York); Second District - Brooklyn (Kings); Eleventh District (Queens); Twelfth District (Bronx); Thirteenth District - Staten Island

³⁸22 N.Y.C.R.R. Parts 33 and 121.2.

³⁹N.Y. Ct. Cl. Act § 2(2)(a).

⁴⁰N.Y. Ct. Cl. Act § 2(7).

⁴¹N.Y. Ct. Cl. Act § 2(3).

⁴²N.Y. Const. Art. VI § 21(b).

⁴³N.Y. Const. Art. VI § 20(a).

⁴⁴N.Y. Const. Art. VI § 25(b).

⁴⁵N.Y. Const. Art. VI § 6(c).

⁴⁶N.Y. Judiciary Law § 140.

(Richmond).⁴⁷ Each judicial district has the following number of justices of the Supreme Court:

First District - 38;
Second District - 49;
Eleventh District - 39;
Twelfth District - 25;
Thirteenth District - 3.⁴⁸

For a party to nominate a candidate for Supreme Court, it must hold a judicial district-wide nominating convention.⁴⁹

Interim appointments are made to fill vacancies and unexpired terms on the Supreme Court. Appointments to fill vacancies on the Supreme Court in the five counties of New York City, created other than by expiration of a term, are made by the Governor, upon advice and consent of the State Senate.⁵⁰

Acting Supreme Court Justices also preside over cases in Supreme Court.⁵¹ An acting Supreme Court Justice has the same jurisdiction as a Supreme Court Justice, but is designated by the Chief Administrator of the Courts upon consultation and agreement with the presiding justice of the appropriate Appellate Division.⁵² According to New York Court rules, selection is made upon recommendations from a panel consisting of the appropriate Deputy Chief Administrator for the Courts, the Deputy Chief Administrator for Management Support, the Administrative Judge for Matrimonial Matters, if any, and the Administrative Judge of the court where the judge serves.⁵³ The panel consults with Administrative Judges, bar associations, and other persons or groups as may be appropriate, and considers the productivity, scholarship, temperament, and work ethic of eligible candidates and any complaints made against the judge being considered.⁵⁴ Seniority is a factor. To be eligible, a judge must serve as a judge in a court of limited jurisdiction (Court of Claims, County Court, Surrogate's Court, Civil, Criminal, or Family

⁴⁷These districts are not to be confused with the smaller judicial (or Municipal Court) districts relevant to the election of Civil Court Judges.

⁴⁸N.Y. Judiciary Law § 140-a.

⁴⁹Election Law §§ 6-124, 6-126.

⁵⁰N.Y. Const. Art. VI § 21(a).

⁵¹N.Y. Const. Art VI §26.

⁵²A chart of the administrative structure of the New York State courts is available at <http://www.nycourts.gov/admin/AdminStructure.pdf>.

⁵³Morgenthau v. Cooke, 56 N.Y.2d 24 (1982) (rejecting Chief Judge's plan to rotate Acting Supreme Court Judges and finding Chief Administrator without authority to make such temporary assignments without establishing standards and policies).

⁵⁴22 N.Y.C.R.R. Parts 33 and 121.2(a), (b).

Court) for at least two years⁵⁵ and reside in the Department for which the appointment is made.⁵⁶ Acting Supreme Court Justices often serve for more than a year and some for over 20 years. An Acting Supreme Court Justice is not eligible for appointment to the Appellate Division or Appellate Term.

6. Surrogate's Court

There are two Surrogates in both New York County and Kings County. There is one in each of the other counties in New York City. The jurisdiction of Surrogate's Court is full and complete general jurisdiction in law and in equity to administer justice in all matters relating to estates and the affairs of decedents.⁵⁷

The selection process is by county-wide election. Eligibility requirements include admission to practice as an attorney in New York for at least ten years.⁵⁸ The term is 14 years in New York City and ten years in all other counties.⁵⁹ Service terminates December 31 of the year in which the judge reaches the age of 70.

Appointments to fill vacancies in the Surrogate's Court, other than those created by expiration of a term, are made by the Governor upon advice and consent of the State Senate.⁶⁰

C. New York City Courts

1. Civil Court

The Civil Court has city-wide jurisdiction over actions and proceedings for the recovery of money and chattels; foreclosure of mechanics' liens and liens on personal property where the amount sought to be recovered or the value of the property does not exceed \$25,000, exclusive of costs and interest; summary proceedings to recover possession of real property and to remove tenants therefrom; and unlimited jurisdiction to enter judgment upon a counterclaim for the recovery of money.⁶¹

Civil Court judges must be admitted to practice as an attorney in New York for at

⁵⁵22 N.Y.C.R.R. Part 121.2(c).

⁵⁶N.Y. Const. Art. VI § 26.

⁵⁷N.Y. Surrogate's Court Procedure Act § 201(3).

⁵⁸N.Y. Surrogate's Court Procedure Act § 2603(4).

⁵⁹N.Y. Const. Art. VI § 12(c).

⁶⁰N.Y. Const. Art. VI § 21(a).

⁶¹N.Y. Const. Art. VI, § 15(b).

least ten years before taking office.⁶² Civil Court judges are elected to ten-year terms⁶³ and are eligible to serve until December 31 of the year in which the judge reaches the age of 70.⁶⁴

Civil Court judges are elected either by county or smaller judicial districts within each county.⁶⁵

The Mayor appoints Civil Court judges to complete unexpired terms. See below for description of the Mayor's appointment process to Family Court, Criminal Court, and Interim Civil Court.

2. Family Court,⁶⁶ Criminal Court, and Interim Civil

The Family Court has jurisdiction over actions and proceedings concerning (1) the protection, treatment, correction, and commitment of minors in need of the exercise of the authority of the court because of circumstances of neglect, abuse, delinquency, or dependency; (2) the custody of minors except for custody incidental to actions and proceedings for marital separation, divorce, or annulment of marriage or dissolution; (3) the adoption of persons; (4) the support of dependents except when incidental to actions and proceedings in this state for marital separation, divorce, annulment of marriage or dissolution of marriage; (5) paternity; (6) termination of parental rights; (7) the guardianship of minors; and (8) crimes and offenses by or against minors, or between spouses, or between parent and child, or between members of the same family or household. The Family Court may also take jurisdiction over certain matters referred to it by the Supreme Court.⁶⁷

The Criminal Court has city-wide criminal jurisdiction over crimes and other violations of law other than those prosecuted by indictment; and over such other actions and proceedings, not within the exclusive jurisdiction of the Supreme Court, as may be

⁶²N.Y. City Civ. Ct. Act § 102-a(1).

⁶³N.Y. Const. Art. VI § 15(a).

⁶⁴N.Y. Const. Art. VI § 25(b). Interim vacancies are filled by appointment of the Mayor until the last day of December after the next election. N.Y. City Civ. Ct. Act § 102-a(3).

⁶⁵Whether a candidate is elected to a 'county-wide' seat or a district seat depends on which vacancy is being filled.

⁶⁶This guide focuses on judges in New York City. Outside of New York City, Family Court judges are elected using a primary election system as opposed to a convention system like Supreme Court Justices.

⁶⁷N.Y. Const. Art. VI §§ 7(a), 13(b)(1)–(7), 13(c).

provided by law.⁶⁸ Specifically, the Criminal Court has trial jurisdiction over all offenses other than felonies and preliminary jurisdiction of all offenses, subject to divestment by the Supreme Court and its grand juries.⁶⁹

The Mayor appoints judges to sit in the New York City Criminal Court and in the Family Court within the City.⁷⁰ These appointments are for ten-year terms. Once a judge is appointed, he/she can be transferred from one court to another by the Office of Court Administration, and after two years' service in the lower courts, he/she may be designated by the Chief Administrator of the Courts as an Acting Supreme Court Justice. In addition, the Mayor appoints judges to fill vacancies on the New York City Civil Court. These judges serve until the next regularly scheduled election.

3. Housing Part of the Civil Court

The jurisdiction of Housing Judges⁷¹ includes actions and proceedings involving the enforcement of state and local laws for the establishment and maintenance of housing standards including the Multiple Dwelling Law and the Housing Maintenance Code, and the Building Code and Health Code of the Administrative Code of The City of New York.⁷² Housing judges also hear summary proceedings seeking eviction of residential tenants.

The eligibility requirements are admission to practice as an attorney in New York

⁶⁸N.Y. Const. Art. VI § 15(c).

⁶⁹N.Y. Crim. Proc. Law § 10.30.

⁷⁰N.Y. Const. Art. VI §§ 13(a), 15(a).

⁷¹N.Y. City Civ. Ct. Act §110 provides:

(e) Actions and proceedings before the housing part shall be tried before civil court judges, acting civil court judges, or housing judges. Housing judges shall be appointed pursuant to subdivision (f) of this section and shall be duly constituted judicial officers, empowered to hear, determine and grant any relief within the powers of the housing part in any action or proceeding except those to be tried by jury. Such housing judges shall have the power of judges of the court to punish for contempts. Rules of evidence shall be applicable in actions and proceedings before the housing part. The determination of a housing judge shall be final and shall be entered and may be appealed in the same manner as a judgment of the court; provided that the assignment of actions and proceedings to housing judges, the conduct of the trial and the contents and filing of a housing judge's decision, and all matters incidental to the operation of the housing part, shall be in accordance with rules jointly promulgated by the first and second departments of the appellate division for such part.

⁷²N.Y. City Civ. Ct. Act § 110(a).

for five years, two of which must have been in active practice, before taking office. Reappointment is possible.⁷³ The term is five years.⁷⁴

Housing Judges are appointed by the Administrative Judge from a list of candidates found qualified by the Advisory Council to the Housing Part of the Civil Court.⁷⁵

D. Assignment of Judges in New York

Once a judge is selected, either by election or appointment, he/she will be assigned to a court and a part. The Chief Judge of the State of New York, in consultation with the Chief Administrative Judge, Administrative Judges, Supervising Judges and the Presiding Justice of the relevant Appellate Division, assigns judges to sit in the County in which they were selected or another county.⁷⁶ For example, a judge elected to New York City Civil Court in Manhattan could be assigned to Family Court in the Bronx. A Supreme Court judge is usually assigned to the county in which he/she was elected, but could be assigned out of county. Civil Court or Family Court Judges may be assigned by the Chief Judge to Supreme Court and are referred to as “Acting Supreme Court Judges.”⁷⁷ However, Family Court and Civil Court judges assigned to be Acting Supreme Court Justices are not eligible to serve in the Appellate Division or Appellate Term.

See Appendix 6 for chart comparing courts and methods of selection.

III. How You Can Be Involved in the Process of Selecting Judges

You can get involved in the process of selecting judges in a variety of ways. The most modest form of engagement is to research the candidates, meet the candidates at community forums, become an active member of your community by talking to friends and neighbors about the candidates and your experience with the candidates, and vote. You might persuade a talented colleague to apply for a judgeship or a sitting judge to apply for a higher court. You can become more engaged by joining a local political club where you might assist the campaign of a judicial candidate or become a delegate to your party’s Judicial Convention. Your assistance might take the form of collecting signatures for Civil Court candidates to get on the primary ballot, donating funds to

⁷³N.Y. City Civ. Ct. Act § 110(l).

⁷⁴*Id.*

⁷⁵N.Y. City Civ. Ct. Act § 110(f).

⁷⁶N.Y. Const. Art. VI § 26.

⁷⁷Rules of the Chief Judge, 22 N.Y.C.R.R. Part 33.

support a candidate,⁷⁸ or fundraising.⁷⁹ You may comment on a candidate when a screening panel calls you, or seek appointment to a screening panel. Consider becoming a screening panel administrator. You might join a community group involved in the process of selecting judges or apply to the governor, mayor, or county leader to request appointment to a screening committee. Join a bar association judiciary committee. You might apply to the Chief Judge for appointment to an Independent Judicial Election Qualification Commission.

If you wish to become involved in the process by sitting on screening panels, you must become known to persons who appoint to such panels. Most screening panel members are active members of community groups or bar associations.

A. The Screening Process

Regardless of what judicial selection method is utilized, be it appointment or election, invariably, every judicial candidate will be vetted by at least one judicial screening panel. As described below, there is a wide array of screening panels to which candidates may be required to submit by appointing or endorsing bodies, and others which are voluntary, such as bar association screening panels. All screening panels are designed to assess the qualifications of judicial candidates and make a recommendation based on the panel's particular rating system. When a candidate is recommended it is known as being "reported out" of the screening panel. Screening panels typically include lawyers, both practicing and non-practicing, and law professors. Some screening panels also include non-lawyer members of the community.

It is difficult to set forth definitive criteria for evaluating candidates for judicial office, particularly given the multitude of different screening bodies, which may employ different standards, and the varying minimum qualifications for different judicial positions. But generally, the standards most often stated include:

- General intellectual ability;

- Knowledge of the law, including knowledge of the specific body of law applicable to the court in which the position is sought. Because judges often sit in courts to which they were not originally elected or appointed (e.g., Civil Court judges may sit by assignment in the Criminal Court or in the Criminal Term of the Supreme Court), knowledge of other areas of the law also is important;

⁷⁸There are limits in election laws as to the amount an individual or entity may donate. You should become familiar with applicable election laws. Furthermore, the Rules of the Chief Administrator of the Courts Rule 151.1 bars "assignments to cases where lawyers, their firms or their clients have contributed \$2,500 or more to the judge's campaigns in the previous two years, or have collectively contributed \$3,500 or more."

⁷⁹Many candidates self finance their campaigns.

- Appropriate demeanor and judicial temperament, including an ability to deal patiently and considerately with both attorneys and *pro se* litigants and, in the case of appellate courts, with other judges in a collegial setting;
- Industriousness and a proven willingness to work hard;
- An ability to discern facts and weigh conflicting evidence;
- An ability to understand legal arguments and to make prompt, correct determinations of legal issues;
- An absence of bias, and a commitment to equal justice for all;
- Integrity, candor, and an absence of outside political or other influence;
- A commitment to public service, particularly to judicial service; and
- Courtroom experience.⁸⁰

Political party affiliation or activity is not a criterion employed by the statutory nominating bodies (e.g., the State of New York Commission on Judicial Nomination and the Advisory Council to the Housing Part of the Civil Court) and other merit selection nominating bodies (as opposed to screening bodies) described in this Guide, nor is it a criterion of the Mayor's Advisory Committee or the screening committees appointed by the Governor.

1. Statutory Nominating Bodies

a. Commission on Judicial Nomination for Court of Appeals

The members of the Commission, who serve without compensation, are appointed by the Governor (four), the Chief Judge of the Court of Appeals (four), the Speaker of the State Assembly (one), the Temporary President of the State Senate (one), the Minority Leader of the State Assembly (one), and the Minority Leader of the State Senate (one).⁸¹ Among each group of four members appointed by the Governor and the Chief Judge, respectively, no more than two may be enrolled in the same political party, two must be members of the bar of the State and two must be

⁸⁰ See

http://www.americanbar.org/content/dam/aba/administrative/judicial_independence/reformat.authcheckdam.pdf.

⁸¹ N.Y. Const. Art. VI § 2(d)(1).

laypersons.⁸² For a list of the current members of the Commission, see <http://www.nysegov.com/cjn>.

b. Housing Court Advisory Council

The Advisory Council is a statutory body composed of fourteen members, who serve without compensation, appointed by the Administrative Judge with the approval of the Presiding Justices of the Appellate Divisions for the First and Second Judicial Departments. The Advisory Council members represent the real estate industry (2), tenants' organizations (2), civic groups (2), bar associations (2), the public (4), the Mayor of The City of New York (1), and the Commissioner of the Division of Housing and Community Renewal (1).⁸³

2. Screening Panels Sponsored by Political Organizations

In some counties historically dominated by a single political party (the Democratic Party in all counties except Richmond), the selection of candidates for nomination by that party has been tantamount to election in the general election. Also, in some counties, the selection of nominees is determined by local political party organizations, with little or no involvement by an independent screening body. Political considerations, including a history of political party activity, contributions to political party organizations, and acquaintance with political party officials, may influence the selection process to varying degrees. However, even where the nomination process appears to be controlled by local political party organizations, the use of screening panels by these organizations has resulted in the nomination of candidates with little prior political involvement.

The Democratic Party's use of independent screening panels is well-established in Manhattan. The screening panels established to review applicants for election to Supreme Court, like those established to review applicants for election to the Civil Court,⁸⁴ are comprised of appointees from a number of legal and non-legal organizations and community groups. They are asked on a rotating basis to appoint

⁸²N.Y. Const. Art. VI § 2(d)(1).

⁸³N.Y. City Civ. Ct. Act § 110(g). For a list of the present membership of the Advisory Council, see <http://www.nycourts.gov/courts/nyc/housing/advisory.shtml>

⁸⁴For local district Civil Court races, screening is at the discretion of leaders within the district who select an administrator and the organizations that will appoint screening panel members.

individuals to sit on the screening panel,⁸⁵ subject to eligibility requirements.⁸⁶ The members of the panel are not expected to represent the appointing organizations, but act as independent evaluators. This is recognized as a “double blind process.” Members are not compensated for their service. Guided by an administrator who is selected by the Party’s judiciary committee, these volunteer members evaluate written applications, conduct personal interviews with attorneys who have appeared before sitting judges or adversaries of practicing attorneys who are applying, review writing samples, decisions, and appellate records, and check references. The screening panels’ meetings and deliberations are considered confidential. The screening panels typically report out the three “Most Highly Qualified” candidates for each vacant position. Those candidates then compete for the Party’s nomination by seeking the endorsement of political leaders and local clubs. In some cases, candidates will compete in primary elections. Only those candidates who have been rated “Most Highly Qualified” by the Democratic Party’s independent screening panel are considered for nomination to Supreme Court at the Party’s judicial convention.

The Democratic parties in Brooklyn, the Bronx, and Staten Island have more recently established screening panels for county-wide offices.⁸⁷

Brooklyn’s panel, like Manhattan’s, includes persons selected by a wide variety of bar and community groups. The party’s Executive Committee is not to endorse any candidate who has not been found “qualified” by the screening panel. As in Manhattan, the panel is to report out a limited pool of recommended candidates for each vacancy

⁸⁵Organizations which have been asked by the New York County Democratic Party to appoint individuals to serve on recent screening panels include: Asian American Bar Association of New York; Asian Americans for Equality; Association of Arbitrators; Brehon Law Association; City Bar; Civitas Citizen, Inc.; Columbian Lawyers Association; Dominican Bar Association; the Fortune Society; Gay Men’s Health Crisis; Harlem Children’s Zone; Hudson Guild; Jewish Lawyers Guild; Lesbian, Gay, Bisexual and Transgender Law Association of Greater New York (LeGaL); Korean American Lawyer’s Association of Greater New York; Metropolitan Black Bar Association; NAACP Mid-Manhattan Branch; National Employment Lawyers Association of New York; National Lawyers Guild; Neighborhood Defender Service of Harlem; New York County Lawyers’ Association; New York State Trial Lawyers Association; New York Women’s Bar Association; Puerto Rican Bar Association; Women’s City Club; and all local law schools.

⁸⁶In Manhattan, for instance, an individual may not serve on a screening panel more than once in a three-year period. N.Y. County Democrats’ Rules, Art. 3, § 7(ii) ¶ 2.

⁸⁷The Queens Democrats’ published rules do not provide for independent screening. Nor do the rules of any county’s Republican Party. The City Bar has not requested the rules of other parties such as the Conservative, Green, or Working Families parties.

(as of this writing, the pool is five individuals per vacancy).⁸⁸

The Bronx has a similar but less-detailed provision which also states that only those candidates deemed qualified by the independent screening panel shall be considered for designation or nomination for the respective judicial office. The Richmond Democrats' published rules provide for a judicial screening panel but do not include provisions to guarantee the independence of the panel's members.

It may be helpful to communicate with local or county political party organizations to obtain further information about candidate selection, including the application process for any preprimary election screening bodies. This is important because the procedures of these screening bodies may change from year to year.

3. Gubernatorial Screening Panels

a. Appellate Division

By order dated April 27, 2011, Governor A. Cuomo formed the Departmental Judicial Screening Committee, which has the authority to evaluate and recommend candidates for all judicial positions in the Appellate Division including that of Presiding Justice, and for appointment to the office of interim Supreme Court Justices.⁸⁹ Only individuals found to be "highly qualified" by the Department Judicial Screening Committee can be appointed by the Governor.

Each judicial department of the state has a Departmental Judicial Screening Committee consisting of 13 members. The Governor picks five of the members, the Chief Judge of the Court of Appeals selects two, the Attorney General appoints two, the Presiding Justice of the Appellate Division for that department chooses one, the Speaker of the Assembly and the Minority Leader of the Senate jointly pick one, the President Pro Tempore of the Senate and the Minority Leader of the Assembly select one, and the president of the New York State Bar Association appoints one. Only individuals who are residents of, work in, or have an office in the judicial department may be selected to serve in the Departmental Judicial Screening Committee of that judicial department. The Departmental Judicial Screening Committee is headed by a chairperson selected by the Governor from among the members of the Departmental Judicial Screening Committee.⁹⁰ For a list of members of the committees, see <http://www.governor.ny.gov/sl2/judicial-screening>.

⁸⁸Kings County Democratic County Committee Report on Judicial Selection Procedures as amended on December 14, 2011. See Appendix 5.

⁸⁹Under section 21(a) of Article VI of the Constitution, the Governor has the power to fill vacancies in the office of Justice of the Supreme Court.

⁹⁰Executive Order 15.

Any individual the Governor selects to fill a judicial position in the Appellate Division or as a justice of the Supreme Court must have been found to be highly qualified by the Departmental Judicial Screening Committee.⁹¹

Each member of a screening committee shall serve for a term of three years. Any vacancies in a screening committee shall be filled in the same manner as the exiting-member who was previously appointed. The individual filling the vacancy shall serve the remainder of the unexpired term. Only the Governor can remove a member of a screening committee for cause. Members of screening committees receive no compensation, but are reimbursed for any necessary expenses incurred in connection with their performances.⁹²

b. Court of Claims

Governor Andrew Cuomo's Executive Order 15 established the State Judicial Screening Committee and gave it the authority to evaluate and recommend candidates for appointment for the offices of Judge and Presiding Judge of the Court of Claims.⁹³ The State Judicial Screening Committee, like the Departmental Judicial Screening Committees, consists of 13 members. Four of the 13 seats are occupied by the Chairperson from each of the Departmental Committees. The Governor fills six of the 13 seats. He selects four individuals from the Departmental Committee and picks two additional individuals. The Chief Judge of the Court of Appeals chooses two individuals, and the last seat is filled by someone appointed by the Attorney General. The State Judicial Screening Committee is headed by a chairperson chosen by the Governor from among the members. Each member of the screening committees shall serve for a term of three years. Any vacancies shall be filled in the same manner as the exiting-member who was previously appointed. The individual filling the vacancy shall serve the remainder of the unexpired term.⁹⁴

4. Mayoral Screening Panel

Under an Executive Order,⁹⁵ Mayor Michael Bloomberg made appointments from a list of candidates submitted by the Mayor's Advisory Committee on the Judiciary

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Since these procedures are not mandated by statute, they change with the election of a new mayor.

("Committee").⁹⁶ The Mayor agreed not to appoint, or reappoint, a judge who had not been nominated or recommended by the Committee. Newly elected Mayor Bill de Blasio has stated that he supports this process and will continue it as Mayor.⁹⁷ The Executive Order provides that the Committee shall, with respect to non-incumbent judges:

- (a) Take steps to recruit and encourage highly qualified persons to apply for appointment;
- (b) Evaluate and conduct all necessary inquiry to determine those persons whose character, ability, training, experience, temperament and commitment to equal justice under law fully qualify them for judicial office;
- (c) Consider all relevant information to determine which of the highly qualified candidates are best qualified, and refer to the Department of Investigation for screening all persons the Committee proposes to nominate for appointment;
- (d) Nominate and present to the Mayor three candidates for appointment to each vacant judgeship, except that if there are numerous vacancies the Committee, in its discretion, may present less than three nominations (unless the Mayor requests three nominations) for each vacancy, and provide such information as may be necessary to inform the Mayor of the qualifications of each nominee.

With respect to judges seeking reappointment, the Committee recommends to the Mayor that the incumbent is "highly qualified for reappointment," or is not. The Committee accepts applications on a continuing basis for appointments to future judicial vacancies as they arise.

The Committee consists of 19 volunteer members. The Mayor selects nine members. The Chief Judge of the Court of Appeals nominates four members, the Presiding Justices of the Appellate Divisions, First and Second Departments, nominate two members each, and the remaining two members are nominated on an annual rotating basis by the deans of the law schools within the City of New York. The Mayor must approve the candidates nominated by the other authorities. The Mayor also selects the Chairperson. Committee members serve two-year terms. The Executive Order provides that they include men and women, and "shall be selected with due consideration for broad community and borough representation."

⁹⁶Executive Order 8, dated March 4, 2002.

⁹⁷E-mail from Mayor de Blasio spokeswoman Lis Smith, quoted in the New York Law Journal, December 19, 2013.

Under Mayor Bloomberg, Hon. Zachary W. Carter, who formerly served as United States Attorney for the Eastern District of New York, as a Magistrate Judge for the Federal District Court, and as a judge of the New York City Criminal Court, chaired the Mayor's Committee. Under Mr. Carter, the Committee formed subcommittees who were responsible for conducting the initial evaluations of candidates for judicial appointment. The Committee took steps to assure that the subcommittees evaluating candidates for the Family Court included members with specific experience in Family Court practice.⁹⁸

5. Bar Association Review of Candidates

Various bar associations also review candidates for judicial office. A bar association review typically includes the candidate's response to a questionnaire, one or more interviews with representatives of the committee, review of the candidate's writings, and interviews of adversaries, judges, and others with whom the candidate has dealt. Some bar associations make endorsements while others take no position other than to report on qualifications.

Most candidates for election or appointment to judicial office in New York City also submit applications for evaluation and appear for interviews by the Judiciary Committee of the City Bar. After the evaluation is completed, the Judiciary Committee announces its finding of either "Approved" or "Not Approved."⁹⁹ The reviews for Federal Circuit and District Court judges, Court of Claims, Supreme Court, Surrogates Court, Family Court, Civil Court, Criminal Court, and Housing Court are conducted by the Judiciary Committee of the City Bar in conjunction with the county bar association in the relevant county, and a member of the relevant court committee.¹⁰⁰ Together they investigate and evaluate the qualifications of all candidates for judicial office in The City of New York. The Executive Committee of the City Bar reviews applicants for the U.S. Supreme Court and N.Y. State Court of Appeals. The results of these reviews are

⁹⁸ The names and brief biographies of other members of the Committee may be found on the Mayor's website at www.nyc.gov/judiciary. Under Mayor Bloomberg, staff assistance was provided to the Committee through the office of the Deputy Mayor for Legal Affairs.

⁹⁹ Unlike screening panels, which limit the number of candidates to be found qualified, the bar association committees do not restrict the number of candidates for each vacancy. For example, numerous candidates running for the same seat may be approved.

¹⁰⁰ The participating court committees are: Courts Committees are: State Courts of Superior Jurisdiction; Family Court and Family Law; Housing Court; Federal Courts; Civil Court; Criminal Courts; Trusts, Estates & Surrogate's Courts; Committee on Bankruptcy and Corporate Reorganization (for Bankruptcy Judges); and Committee on International Trade (for judges of the Court of International Trade, which is based in New York City).

reported to the appointing authority in the case of appointed judgeships, and to the public by press release in the case of elective judgeships.

To be a member of the City Bar's Judiciary Committee, you must first be a member of the City Bar and apply to the Chair of the Judiciary Committee for a three year appointment. The president of the City Bar makes the appointments.

Candidates may also voluntarily submit applications to additional bar association screening panels, including the Joint Minority Bar Association Screening Panel and the Lesbian, Gay, Bisexual and Transgender Law Association of Greater New York (LeGaL) Screening Panel. The New York Women's Bar Association has, on occasion, also formed a screening panel.

In addition, many bar associations have judiciary committees that are involved in the process of judicial selection.

6. Independent Judicial Election Qualification Commission

Candidates for election may also voluntarily submit applications to the Independent Judicial Election Qualification Commission ("JEQC"), which was established by OCA to ensure that voters are provided with as much information as possible about the qualifications of candidates for judicial office.¹⁰¹

Each qualification commission is comprised of 15 members appointed as follows: (1) The Chief Judge of the State of New York selects five members, two of whom must be non-lawyers; (2) The Presiding Justice of the Appellate Division encompassing the appropriate district commission shall select five members, two of whom must be non-lawyers; (3) The President of the New York State Bar Association selects one member; (4) Four local bar associations, located within the appropriate judicial district and designated by the Presiding Justice of the Appellate Division of the appropriate district, select one member each.

As part of that investigation, JEQC members speak to references, attorneys who have appeared before judges seeking re-election and other relevant members of the community; review the applicant's professional writings; and usually conduct a personal interview with the candidate. All proceedings conducted by the JEQC and all papers filed with them are kept confidential. Judicial candidates evaluated by the JEQC are rated "qualified" or "not qualified"; a "qualified" rating is valid for three years (in the absence of any new information that may have a negative effect on that individual's qualifications and/or background), while candidates found "not qualified" are considered not qualified for that judicial office for one year from the date of submission of the

¹⁰¹For JEQC brochure see <http://www.nycourts.gov/publications/pdfs/IJEQC-brochure.pdf>.

candidate's application to the JEQC.

The JEQC are relatively new. To date, no study has been conducted to assess the significance of appearance or nonappearance before the JEQC in the election process.¹⁰²

7. New York Senators' Screening Panels for Article III Judges

Under President Barack Obama, candidates recommended to the White House must submit applications to the American Bar Association Screening Panel. Individuals interested in participating in the selection of federal judges may wish to contact their U.S. Senators. However, the nature of an individual Senator's screening process may vary with the officeholder, and the influence of particular Senators on the President's selection has historically depended on whether a Senator is of the same party as the President. Likewise, a nominee's prospects for Senate confirmation may depend on the political relationship between the President and members of the Senate.

8. Magistrate and Bankruptcy Judges Screening Panels

The judges of each U.S. District Court appoint a screening committee of attorneys and community leaders to make recommendations to them. Magistrate Judges are then selected with the concurrence of a majority of the judges in the District for which the appointment is made, or by the Chief Judge of the District.¹⁰³

Appointments of Bankruptcy judges in each district are made by a majority of Judges of the United States Court of Appeals for each Circuit upon the recommendation of the Judicial Conference of the United States, or by the Chief Judge of the Court of Appeals when a majority of judges cannot agree.¹⁰⁴ A panel of circuit judges and district judges from the district where the judge will serve makes recommendations for appointments.

B. The Political Process

Another way to participate in the judicial selection process is to get involved in the political process. As previously noted, judges in New York State are either appointed by an appointing authority or elected in a general election by enrolled voters in particular geographic areas, depending on the particular judicial position. Under the election method, which is a partisan political process, candidates must first win the

¹⁰²For a list of JEQC members, see <http://www.nycourts.gov/ad3/JEQC/MembersList.pdf>.

¹⁰³28 U.S.C. § 631(a).

¹⁰⁴28 U.S.C. § 152(a)(1), (3).

nomination of their political party through a primary election or, in the case of New York State Supreme Court Justices, through a judicial convention. Typically, certain geographic areas within the city and state lean toward one party politically, and therefore the “election” of a judge is often determined de facto at the nomination stage. Thus, while individuals interested in judicial selection can get involved at the general election stage, the nomination process presents a more meaningful opportunity to participate in the judicial selection process. Set forth below is a description of the two nomination methods under the elective process and opportunities for involvement.

1. Primary Election

The most common method of nominating party candidates is a party primary election, which is employed for Civil Court judicial positions and Surrogates Court positions.¹⁰⁵ In New York State, the primary is held traditionally in September. To get on the primary ballot, a candidate must collect the requisite number of valid signatures on designating petitions by a date set by the New York State Board of Elections. Candidates who meet the petitioning requirements and file with the appropriate Board of Elections in a timely manner are designated as candidates for the primary election.¹⁰⁶ Enrolled voters within the applicable party carry designating petitions for slates of candidates, which include judicial candidates, and witness voters signing the petitions. To accomplish this task, judicial candidates, as well as other political candidates, often seek assistance from local political organizations, such as political clubs in New York City. These organizations exist in part to support and endorse candidates that stand for the principles and values embraced by the organization and play a significant role in providing the human resources to gather designating signatures for candidates they have endorsed. Once candidates are designated for the primary ballot (and survive any challenges to the number or validity of petition signatures), they typically engage in a campaign, sending out literature and seeking endorsements from other political leaders, local organizations, and news media.¹⁰⁷ The candidate who prevails at the primary becomes the party’s nominee and will be listed as such on the general election ballot in November (either county-wide or district-wide depending on the position).¹⁰⁸ Candidates

¹⁰⁵Elected Civil Court positions can be county-wide positions or local district positions. Candidates for local district positions who qualify for the primary will appear only on the ballots (and general election ballot if they win the primary) in the local district whereas county-wide candidates appear on the ballot throughout the borough.

¹⁰⁶There is also an opportunity for so-called write-in candidates to petition for the opportunity to write-in candidates. N.Y. Elec. Law §§ 6-160, 6-168.

¹⁰⁷New York’s ethical rules governing judicial campaigns expressly allow for incumbent judicial candidates to launch their campaigns nine months before the general election and remain politically active three months after the election. Code of Judicial Conduct, N.Y.C.R.R. tit. 22, § 100.0(Q).

¹⁰⁸N.Y. Elec. Law § 6-168(3).

designated for the primary who are uncontested (i.e., the number of candidates does not exceed the number of available nominations) are deemed nominated and shall not appear on the primary ballot unless a valid petition for an opportunity to ballot is filed in a timely manner (i.e., petition to write-in an undesignated candidate).¹⁰⁹

There are many avenues to participate in the primary process. Individuals can participate at the grass roots level, getting involved in political clubs and organizations that endorse and support judicial candidates. This affords interested individuals the opportunity to voice their views on particular candidates and participate in the club's decision-making process. Individuals may also volunteer on particular candidates' campaigns and carry designating petitions to qualify candidates for the primary ballot, assuming that such individuals reside in the state and are enrolled voters in the applicable political party. And because candidates are subject to screening panels, individuals can get involved with a wide array of organizations, such as bar associations, that organize screening panels as described above.

2. Judicial Convention

The New York State Constitution provides for the election of its general trial level judges – Supreme Court Justices – from each of twelve geographic Judicial Districts comprised of one or more counties.¹¹⁰ But rather than using the standard primary process for nominating Supreme Court candidates, New York State employs a unique system of electing party nominees for this office – the judicial district convention.¹¹¹ Under the convention system, the nominating function is delegated to local party representatives, known as judicial delegates and alternate delegates, who are elected from smaller geographic areas within each Judicial District, called Assembly Districts –

¹⁰⁹See N.Y. Elec. Law § 6-164 for the write-in process.

¹¹⁰N.Y. Const. Art. VI § 6; N.Y. Elec. Law § 6-124; N.Y. Jud. Law § 140.

¹¹¹N.Y. Elec. Law § 6-106. The constitutionality of New York's judicial nominating convention method was the subject of a constitutional challenge in *Lopez Torres, et al. v. New York State Bd. of Elections*, et al., 411 F. Supp. 2d 212 (E.D.N.Y. 2006), *aff'd*, 462 F.3d at 161 (2d Cir 2006), *rev'd* 552 U.S. 196 (2008). The lead plaintiff, a Supreme Court judicial candidate in Brooklyn, filed suit, seeking, *inter alia*, a declaration that New York's convention system violated the purported First Amendment rights of challengers running against candidates favored by party leaders. Siding with the plaintiff, the district court issued a preliminary injunction enjoining use of the nominating convention, pending the enactment of a new statutory scheme, and mandating a direct primary election to select Supreme Court nominees in the interim. 411 F. Supp. 2d at 212. The Second Circuit affirmed. 462 F.3d at 161. The case reached the United States Supreme Court, which reversed and unanimously upheld the constitutionality of the convention system. *New York State Bd. of Elections v. Lopez Torres*, 552 U.S. at 196.

the same political subdivisions by and from which New Yorkers elect their representatives for the New York State Assembly and the members of the state committees of their respective parties.¹¹² The sole function of a judicial delegate (or an alternate in the event the judicial delegate is unavailable) is to place the names of Supreme Court candidates in nomination for each vacancy and vote for candidates on behalf of their constituencies. The number of delegates and alternate delegates for each Assembly District is governed by each party's internal rules, although New York State's Election Law requires that the allotted number be substantially proportional to the percentage of total votes cast statewide for the party's gubernatorial candidate in the last election.¹¹³

Judicial delegate and alternate delegate are party positions elected by enrolled voters within the party. Any New York State resident who is an enrolled member of a political party can run for judicial delegate or alternate delegate within any Assembly District within the Judicial District. The Election Law requires a designating petition signed by 500 enrolled members of the party, or 5% of the enrolled voters, whichever is less.¹¹⁴ As with other public offices and party positions, petitioning occurs within the 37-day petitioning period in the spring.¹¹⁵ And like other public offices and party positions, candidates for judicial delegate and alternate from an Assembly District often run on a slate together with candidates for other public offices or party positions, making it easier and more efficient to obtain the requisite signatures. In addition to filing a designating petition, any group of enrolled voters may choose to run a write-in-campaign for judicial delegate by filing with the applicable Board of Elections a petition for an opportunity to ballot.¹¹⁶ If the petition is found to be valid, anyone who desires to write in against the designated slate of candidates may write in whatever name he/she wishes.¹¹⁷

Judicial delegates and alternate delegates convene at a judicial district-wide convention in September and cast their votes for those candidates whom they believe best should serve as the party's nominee in the general election. The manner and extent to which a judicial delegate may influence the process varies among the counties

¹¹²N.Y. Elec. Law § 6-124. The judicial convention must be held "not earlier than the Tuesday following the third Monday in September preceding the general election and not later than the fourth Monday in September preceding such election." N.Y. Elec. Law at § 6-158(6).

¹¹³N.Y. Elec. Law §§ 6-124, 6-136(3).

¹¹⁴N.Y. Elec. Law § 6-136(3).

¹¹⁵N.Y. Elec. Law § 6-136(4). The State Assembly has passed legislation, Bill No. A8198, changing the date of the primary from September to June. As of this writing the Senate has not concurred.

¹¹⁶N.Y. Elec. Law § 6-164.

¹¹⁷*Id.*

and political parties. Thus, the convention system provides an additional, unique opportunity for individuals interested in judicial selection to participate by giving them an opportunity to run for a judicial delegate position in the primary. The manner in which each convention is conducted may vary. Delegates should learn the local customs and practices in their county and party.

Because judicial delegate and alternate delegate are elected party positions, obtaining support for candidacies for these positions, as with any elected position, is subject to the local political realities and practices on the ground. For example, in New York County, judicial delegates and alternates are typically members of, and supported by, local political clubs, and candidates typically and naturally must have (or must win) the confidence of the club's constituency, including political leaders associated with the club to obtain support. Individuals interested in serving as judicial delegates or alternate delegates are encouraged to familiarize themselves with their local Assembly Districts' grass roots political organizations, process, and leadership. As with any political process, the key is to get involved, express an interest in participation, demonstrate one's ability to competently represent the district's interests, and earn the confidence of those in positions to lend support at various levels. To represent a community, one must be involved in the community.

Of course, the other typical avenues for participation in the judicial selection process, such as the array of judicial screening panels, exist with respect to Supreme Court Justice as well. Under the New York County Democratic Committee's rules, for example, the Committee may only support candidates for nomination for Supreme Court Justice if the judicial candidate is reported out of the party's Independent Judicial Screening Panel. Individuals interested in judicial selection are encouraged to explore all of these avenues.

IV. Conclusion

New York deserves a judiciary of the highest quality and independence, as well as a judiciary that reflects the broad array of views and experiences of our City's and State's diverse population. Active, well-informed citizen participation in the judicial selection process can help achieve these goals. We encourage all lawyers and others to take advantage of the opportunities for involvement that are described in this guide.

Appendix 1: Diagram of New York Courts

Appendix 2: List of New York State Departments and Districts

Appendix 3: Executive Order #15 Establishing New York State Judicial Screening Committees

Appendix 4: Select provisions of political parties rules regarding judicial selections on file with Board of Election

Appendix 5: Kings County Democratic County Committee Report on Judicial Selection Procedures as amended on December 14, 2011

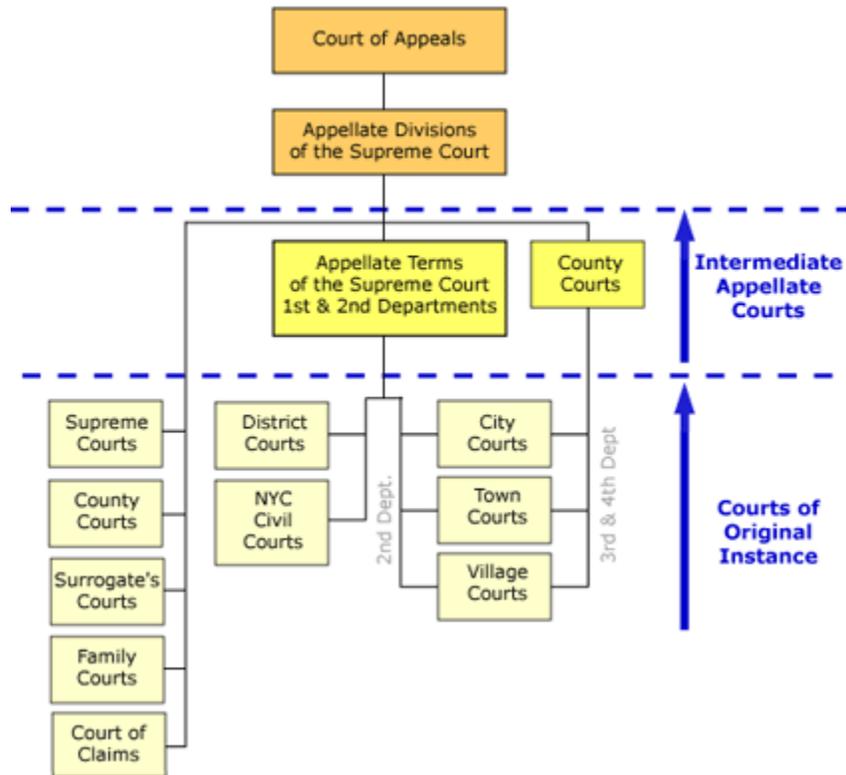
Appendix 6: Chart of Courts and their Selection Methods

Appendix 7: Relevant City Bar Reports and Comments

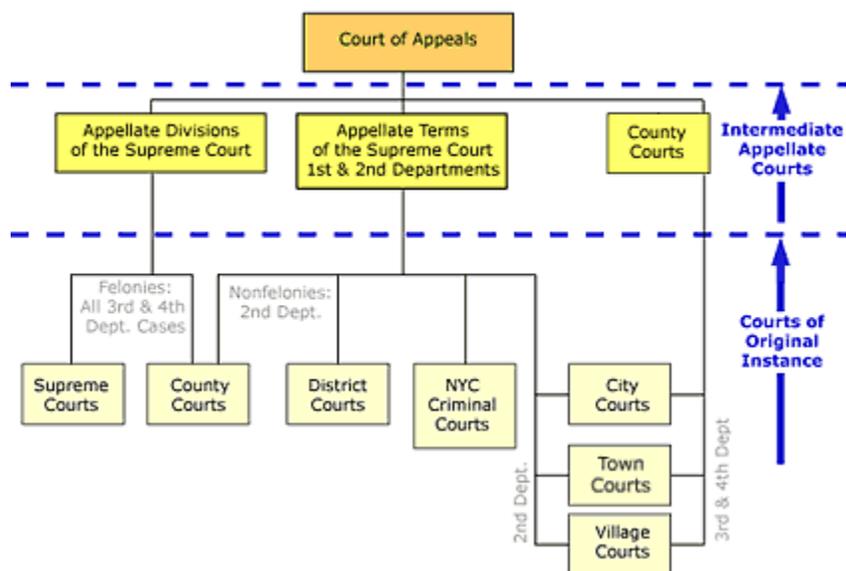
APPENDIX 1

Diagram of New York Courts

CIVIL COURT STRUCTURE



CRIMINAL COURT STRUCTURE



Appendix 2

List of New York State Departments and Districts



APPENDIX 3

Executive Order # 15

Published on *Governor Andrew M. Cuomo* (<http://www.governor.ny.gov>)

EO #15 ESTABLISHING JUDICIAL SCREENING COMMITTEES

WHEREAS, under the Constitution and Laws of the State of New York the Governor is entrusted with the responsibility of appointing judicial officers to the offices of Judge and Presiding Judge of the Court of Claims; designating Justices of the Supreme Court to the offices of Justice, Temporary Justice, and Presiding Justice of the Appellate Division of the Supreme Court; and appointing judicial officers to fill vacancies in the offices of Justice of the Supreme Court, Judge of the County Court, Judge of the Surrogate's Court, and Judge of the Family Court outside the City of New York; and

WHEREAS, a fair, impartial, independent, highly qualified, and diverse judiciary is essential to ensuring justice for all who come before New York State's courts and to fostering public confidence in the integrity of the judicial process; and

WHEREAS, a fair, impartial, independent, highly qualified, and diverse judiciary is cultivated by:

1. encouraging highly qualified candidates from all parts of New York State, with diverse backgrounds and experiences, to apply for judicial offices;
2. reviewing candidates for judicial office without regard to political beliefs or party affiliation; and
3. selecting judicial officers who reflect the diverse backgrounds and experiences of the residents of New York State, based on their integrity, independence, intellect, judgment, temperament, and experience; and

WHEREAS, the highest quality of judicial appointments can best be assured with the assistance of diverse, credible, impartial and non-partisan judicial screening committees;

NOW THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

A. Purpose and Duties

1. Judicial Screening Committees are hereby established to evaluate the qualifications of candidates for appointment or designation to judicial office throughout New York State, and to recommend to the Governor those persons who are highly qualified to hold judicial office.
2. Each Judicial Screening Committee shall:

a. Actively recruit candidates for appointment or designation to the judicial offices within the committee's jurisdiction. In recruiting candidates, the Judicial Screening Committees shall strive to find candidates that reflect the diverse backgrounds and experiences of the citizens of New York State;

b. Review and evaluate the qualifications of all candidates for appointment or designation. In reviewing and evaluating the qualifications of candidates, each committee member shall give primary consideration to each candidate's integrity, independence, intellect, judgment, temperament and experience, and shall not give any consideration to the age, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or political party affiliation of the candidate;

c. Recommend for appointment or designation only those candidates who, as determined by a majority vote of all members of the committee, are highly qualified for the judicial office for which they are being considered. No committee shall pass on the qualifications of any candidate until after a thorough inquiry has been made by the committee and its staff;

d. Prepare written reports on the qualifications of each candidate it determines to be highly qualified and recommends to the Governor. Committee reports shall be made available to the public upon request. All other records and deliberations of, and all communications to, any Judicial Screening Committee with respect to a candidate shall be held in confidence and shall not be disclosed to anyone other than the Governor, Counsel to the Governor, or their designees. Notwithstanding the foregoing, information submitted to any Judicial Screening Committee relating to an appointee may be disclosed to the Senate when necessary for confirmation of the appointee, and information submitted to a Judicial Screening Committee may be disclosed to any other person or organization if disclosure is required in connection with disciplinary proceedings or is otherwise required by law.

B. State Judicial Screening Committee

1. A State Judicial Screening Committee is hereby established.

2. The State Judicial Screening Committee shall consist of thirteen members: two individuals selected by the Governor; the Chairperson of each of the Departmental Judicial Screening Committees established by Section C of this Executive Order; one of the other members of each of the Departmental Judicial Screening Committees, who shall be selected by the Governor; two persons selected by the Chief Judge of the Court of Appeals; and one person selected by the Attorney General. The chairperson of the State Judicial Screening Committee shall be appointed by the Governor from among the members of the Committee.

3. The term of office of any member of the State Judicial Screening Committee who is a member of a Departmental Screening Committee shall expire at the same time as the member's term of office on the Departmental Screening Committee expires.

4. The State Judicial Screening Committee shall have jurisdiction to consider the qualifications of candidates for appointment to the offices of Judge and Presiding Judge of the Court of Claims, and to recommend to the Governor all persons whom it finds highly qualified for those judicial offices.

5. When exercising the power to designate the Presiding Judge of the Court of Claims pursuant to section 2(6) of the Court of Claims Act; or the power to appoint a Judge of the Court of Claims pursuant to section 9 of Article VI of the Constitution and section 2(2) and 2(4) of the Court of Claims Act; or the power to fill a vacancy in the office of Judge of the Court of Claims pursuant to section 21(b) of Article VI of the Constitution, the Governor shall appoint or designate only persons who have been recommended by the State Judicial Screening Committee as highly qualified for the judicial office to which the appointment or designation is to be made.

6. The State Judicial Screening Committee shall promulgate appropriate rules and regulations to govern its proceedings and those of the Departmental and County Judicial Screening Committees established by this Order. The rules and regulations shall include standards and procedures for ensuring, to the extent possible, uniformity of criteria for evaluating the qualifications of candidates for appointment or designation to judicial office throughout New York State.

C. Departmental Judicial Screening Committees

1. A Departmental Judicial Screening Committee is hereby established in each judicial department of New York State.

2. Each Departmental Judicial Screening Committee shall consist of thirteen members: five members shall be selected by the Governor; two members shall be selected by the Chief Judge of the Court of Appeals; two members shall be selected by the Attorney General; one member shall be selected by the Presiding Justice of the Appellate Division for that department; one member shall be selected jointly by the Speaker of the Assembly and the Minority Leader of the Senate; one member shall be selected jointly by the President Pro Tempore of the Senate and the Minority Leader of the Assembly; and one member shall be selected by the President of the New York State Bar Association. The Chairperson of each Departmental Screening Committee shall be appointed by the Governor from among the members of the Committee. Each member of the Committee shall be a resident of, have an office in, or work in the judicial department in which he or she is to serve.

3. Each Departmental Judicial Screening Committee shall have jurisdiction to consider the qualifications of candidates for designation to the offices of Justice, Additional Justice, Temporary Justice and Presiding Justice of the Appellate Division of the Supreme Court for such department, and candidates for appointment to the office of Supreme Court Justice within such department, and to recommend to the Governor all persons whom it finds highly qualified for those judicial offices.

4. When exercising the power to designate the Presiding Justice of each Appellate Division pursuant to section 4(c) of Article VI of the Constitution; or the power to

designate other Justices of any Appellate Division pursuant to sections 4(c) and 4(d) of Article VI of the Constitution; or the power to designate Additional Justices of any Appellate Division pursuant to section 4(e) of Article VI of the Constitution; or the power to fill a vacancy in the office of Justice of the Supreme Court pursuant to section 21(a) of Article VI of the Constitution, the Governor shall appoint or designate only persons who have been recommended by a Departmental Judicial Screening Committee as highly qualified for the judicial office to which the appointment is to be made.

5. A candidate recommended as highly qualified for the office of Supreme Court Justice or Justice or Additional Justice of the Appellate Division of the Supreme Court by a Departmental Screening Committee shall be eligible for appointment or designation by the Governor to such office in any judicial department. Notwithstanding the foregoing, a person serving as a Justice of the Appellate Division of the Supreme Court may be designated by the Governor to serve as an Additional Justice, and a person serving as an Additional Justice of the Appellate Division of the Supreme Court may be designated by the Governor to serve as a Justice, of the same or a different judicial department without the recommendation of a Departmental Screening Committee.

D. County Judicial Screening Committees

1. A County Judicial Screening Committee is hereby established in each county of the State, consisting of the members of the Departmental Judicial Screening Committee for the department in which the county is located plus one additional person who shall be resident of, have an office in, or work in the county in which he or she is to serve, to be selected by the chief executive officer of the county. The Chairman of the Departmental Judicial Screening Committee shall also serve as Chairman of the County Judicial Screening Committee. As used herein, the term "chief executive officer" for the county shall mean the appointed or elected county executive, as the case may be, or if there be no such office, the chairman of the governing body of the county; provided, however, that for counties within the City of New York, the term "chief executive officer" for the county shall mean the Mayor of the City of New York.

2. Each County Judicial Screening Committee shall have jurisdiction to consider the qualifications of candidates for appointment to the offices of Judge of the County Court, Judge of the Surrogate's Court, and Judge of the Family Court outside of the City of New York, for such county, and to recommend to the Governor all persons whom it finds highly qualified for those judicial offices. When exercising the power of appointment to fill a vacancy in the office of Judge of the County Court, Judge of the Surrogate's Court, or of Judge of the Family Court outside of the City of New York, pursuant to section 21(a) of Article VI of the Constitution, the Governor shall appoint only persons who have been recommended by the appropriate County Judicial Screening Committee as highly qualified for the judicial office to which the appointment is to be made.

E. General Provisions

1. The terms of office of the members of the Judicial Screening Committees established by this Executive Order shall be for a term of three years.

2. The terms of office of the members of the Judicial Screening Committees established by this Executive Order are subject to the provisions of section 5 of the Public Officers Law.

3. Committee vacancies shall be filled in the same manner as initial appointments, and a person appointed to fill a vacancy shall serve for the remainder of the unexpired term. No member shall be removed during his or her term by the Governor except for cause.

4. No member of a Judicial Screening Committee shall hold any judicial or elected public office for which he shall receive compensation during his period of service, nor shall he hold any office in any political party. No member of a Judicial Screening Committee shall be eligible for appointment to any judicial office within the jurisdiction of the Judicial Screening Committee on which the member serves during the member's period of service or within one year thereafter.

5. Members of Judicial Screening Committees shall receive no compensation for their service, but shall be entitled to reimbursement for any necessary expenses incurred by them in connection with the performance of their duties. Each judicial screening committee shall have a paid staff available to it sufficient to enable the committee to carry out properly its responsibilities including adequate investigations into all matters relevant to the qualifications of candidates for appointment to judicial office.

6. Executive Order No. 8, issued June 18, 2008, is hereby revoked and superseded by this Executive Order as of the date hereof.

G I V E N under my hand and the Privy Seal
of the State in the City of Albany this twenty-
seventh day of April in the year two
thousand eleven.

BY THE GOVERNOR

Secretary to the Governor

APPENDIX 4¹¹⁸

Select Provisions of Political Parties

BRONX DEMOCRATS (dated 9/20/12)

Art. 4, Sec. 4-1.3 **Independent Judicial Screening Panel**

An independent judicial screening panel is established for the designation/nomination of all judicial candidates seeking the support of the Party for election to judicial office. There shall be a panel administrator who organizes and conducts the screening panel. The panel administrator shall provide notice of the judicial screening panel questionnaire's availability in the New York Law Journal. There shall be a minimum of seven (7) participants comprising the independent screening panel, consisting of bar and community groups and these groups shall be solely responsible for the election of the participating member on the panel without any direction of the Party. Only those candidates deemed qualified by the panel shall be considered for designation or nomination for the respective judicial office.

BRONX REPUBLICANS (undated)

No specific provision on file.

BROOKLYN DEMOCRATS (dated 9/19/12) (states unchanged from rules as amended 1/27/09)

No specific provision on file.

BROOKLYN REPUBLICANS (9/30/09)

No specific provision on file.

MANHATTAN DEMOCRATS (9/26/11)

Art. 3, Sec. 7 (ii) **Committee on the Judiciary**

(1) The Committee on the Judiciary shall consist of at least five members of the Executive Committee appointed by the County Leader, additional members to be appointed in the discretion of the County Leader and the Chairperson or Chairpersons of the Law Committee, ex-officio. It shall, by majority vote, select organizations (or heads of organizations acting in their individual capacity) which shall each designate one member of an independent panel for screening judicial candidates, and the Committee on the Judiciary shall report its selections to the Executive Committee. In selecting such organizations, the Committee on the Judiciary shall insure broad representation of all elements of the community.

(2) The Committee on the Judiciary shall also designate a person, not a member of the Executive Committee, who shall act as Administrator of the independent panel,

¹¹⁸The Committee wishes to thank Lawrence A. Mandelker for his assistance in obtaining copies of the rules.

without being a voting member thereof. The Committee shall cooperate with the independent panel by establishing timetables and procedures for the operation of the panel, and shall establish guidelines for the qualifications and method of selection of members designated to serve on the independent panel and for the conduct of the panel. The Committee shall also provide for adequate publicity in advance of the first meeting of the panel with respect to each judicial position. The Committee shall meet with the Administrator and with the independent panel at the first meeting to review the guidelines and timetables set by the Committee. At such meeting the Administrator shall inquire as to the availability and qualifications of each panel member, and in a proper case may request the designation of a substitute for a particular member of the independent panel, such request to be made to the organization (or head of organization) which had originally designated such member. No person shall be proposed or approved as a member of the independent panel who shall not have agreed to follow the guidelines established by the Committee. No person may serve as a voting member of an independent screening panel for more than one year in any consecutive three year period. Any member of a panel who is or was a relative, partner, associate, employer or employee of any person who appears before said panel for the purpose of being screened shall disclose such relationship to the Administrator and shall be disqualified from voting with respect to such person; the Committee on the Judiciary may establish guidelines which are more restrictive in order to prevent conflicts of interest.

(3) Neither the Executive Committee nor the County Leader shall designate, nominate or propose any candidate for judicial offices which are to be elected county-wide in New York County, or which are to be proposed for appointment by the Mayor of the City of New York or by the Governor of the State of New York, exclusive of recommendations for interim appointment by the Mayor or the Governor, unless such candidate shall have been approved in that calendar year for such office by the independent panel, except that once a candidate for the office of Justice of the Supreme Court has been reported as highly qualified by at least two of the last four independent screening panels for that office, that candidate shall be considered as having been approved by the panel for such office during each of the four calendar years after the year in which the candidate shall have last achieved such status....and such candidate shall not make application to the panel during any of such years unless the Committee on the Judiciary shall require the candidate to make such an application.

(4) The independent panel shall report as approved for each judicial position all highly qualified persons who make application to the panel, provided that if the number of highly qualified applicants exceeds three times the number of existing vacancies to be filled in such position...the independent panel shall report as approved the most highly qualified applicants in a number equal to three times the number of vacancies to be filled in such position, provided further that if the number of highly qualified applicants is less than three times the number of vacancies to be filled in such position the independent panel shall report as approved the most highly qualified applicants in a number equal to not less than two times the number of such vacancies, provided further that the following categories of applicants who are eligible

for reelection or reappointment shall be reported as approved if their performance during their term of office merits continuation in office, and no other applicants shall be reported as approved for their vacancies: (a) a judge or justice completing a full term of office seeking re-election to that office, or (b) an interim Supreme Court justice who has been appointed by the Governor to fill an existing vacancy no later than the previous June 1 after approval of the Governor's screening panel, who has been confirmed by the State Senate and has assumed office no later than the date the panel renders its report, ...[remainder omitted]

(5) The report of the independent panel shall be delivered to the chairperson of the Committee on the Judiciary and the chairperson of the Law Committee immediately upon its adoption. The chairperson of the Committee on the Judiciary shall immediately confer with the members of the Committee on the Judiciary to determine whether the report complies with these Rules and the guidelines established by the Committee...[remainder omitted]

(6) The independent panel shall have no power to make any change in its report after the final meeting. The Committee shall release the report to all members of the Executive Committee within 24 hours after the close of such final meeting.

MANHATTAN REPUBLICANS (9/19/11)

No specific provision

QUEENS DEMOCRATS (9/21/12)

No specific provision

QUEENS REPUBLICANS (9/28/11)

No specific provision

STATEN ISLAND DEMOCRATS (9/16/11)

Article VII, Section 6(d) **Committee on Law and the Judiciary**

(i) ...there shall also be a Committee on Law and the Judiciary. This Committee, through its chair, shall advise the County Committee and the Executive Committee and all other bodies and officers of the County Committee on any question of law relating to the discharge of any duty and report on matters of a legal nature.

(ii) The Committee...shall be chaired by the Chair of the Committee on Law and the Judiciary...and said committee shall consist of the Chair...and it shall also consist of at least six additional members of the bar..., residing in Richmond County, five of whom shall be appointed by County Chair and the Chair of the Committee...and serve at the discretion of the County Chair. The Committee on Law and the Judiciary shall, either as composed, or by the inclusion of other members as it shall designate, as the Judicial Screening Panel, by majority vote, arrange and conduct the screening of candidates for judicial office and delegates for judicial convention.

(iii) Two of the seven members of the Committee on Law and the Judiciary shall be the Chair of the Committee...and a Deputy Chair. The Deputy Chair shall be appointed by the County Chair and serve at said Chairs discretion and the Deputy shall also serve as an additional member of the Executive Committee. The Committee

Chair shall be charged with developing and promulgating rules and procedures under which Judicial Screening will take place and shall act as Administrator of the Judicial and Delegate Screening Panel. The deputy chair shall yield and defer to the chair of the committee.

(iv) The Judicial Screening Panel, through the Chair of the Committee on Law and the Judiciary shall report to the County Chair and the Executive Committee on all qualified applicants for Judicial Office and as delegates. Provided that if the number of qualified applicants, at the time the committee issues its report, exceeds three times the number of vacancies, the Screening Panel shall report as approved only a number of the most qualified applicants, not less than two times the number of said vacancies.

(v) The Screening Panel shall also be charged with the screening of incumbent judges and justices completing terms, and eligible for reelection or reappointment. However, by majority vote, the Panel may choose to deem as approved only the said incumbent seeking a new term and the Chair of the Law Committee or his designee shall report to the County Chair or Executive Committee.

STATEN ISLAND REPUBLICANS (undated)

No specific provision

APPENDIX 5

Kings County Democratic County Committee Report on Judicial Selection Procedures as amended on December 14, 2011

1. A newly-constituted screening panel shall be established, effective October 1, 2003. The panel shall review and interview all legally qualified candidates for Judicial Office who request such a review. They shall judge each candidate as either "Qualified" or "Not Qualified at this time." The panel may, in its discretion, publish explanatory language in any determination finding a candidate "Not Qualified at this time." Prior to the publication of any list of Committee findings, candidates shall be permitted to withdraw their candidacies, unequivocally and with prejudice. Of the Qualified Candidates the Panel shall report out a limited pool of recommended candidates based on the total number of vacancies for that judicial office (i.e., civil, supreme). The total pool shall be 5 individuals per vacancy for each type of judicial office. For the purposes of determining the size of the Pool, incumbent's seats shall be included.
 - a] The panel may waive the submission of an application and the formal interview of any candidate who has been screened and adjudged "Qualified" in each of two (2) successive years for a period not to exceed three years, provided however, that such candidate submits a form affidavit (as prepared by the panel) to the effect that no material change to their background, qualification or fitness has occurred. Upon the grant of such waiver to any such candidate, the panel shall report such candidate as "Qualified" in the same manner as those candidates who have been subject to screening in the current year.
 - b] The panel is authorized to impose absolute deadlines for the submission of applications, affidavits and required documentation by putative candidates. The panel may reject, as untimely, any documentary submission received after a published deadline.
2. The panel's determination for each and every person interviewed shall be shared with all members of the Executive Committee prior to an endorsement vote. In the case of candidates for the Civil Court, this should be at least four weeks prior to the first day to circulate petitions or as soon as practical. In the case of Supreme or Surrogates Court, these findings should be published sixty (60) days before the first day to convene the Judicial Convention or as soon as practical and made available to all Delegates and Alternate Delegates attending the Judicial Convention and to all members of the Executive Committee.
3. In addition to any existing and/or additional requirements of the panel, any person who wishes to be interviewed must disclose any and all action taken against them by any bar disciplinary committee, including private admonitions. In

addition, any such person who is or has been a sitting judge must disclose any and all action taken against them by The Commission on Judicial Conduct., including private admonitions.

Additionally, all open and pending inquiries must be disclosed as well. Any candidate who asserts that no such action has ever been taken against them must affirm so in writing.

4. The Executive Committee may not endorse any candidate for Judicial Office that is not recommended by the Screening Panel. The Executive Committee may not endorse for nomination by the Judicial Convention any candidate for Supreme Court that is not found to be “recommended” by the Screening Panel. Incumbent Judges seeking re-election to the same office shall be deemed Recommended unless seventy-five percent (75%) of the quorum determines that the Judge should not be reported out as Recommended. For the purposes of these rules Judges appointed to fill interim vacancies shall not be deemed Incumbent Judges.
5. No member of the Screening Panel may be a candidate nor may they be related to any candidate. “Related” shall be defined to include relation by marriage, and shall be limited to relationships that are “first cousin” or closer. Refusal is not sufficient protection. Anyone who is related to any candidate in a given year may not serve at all on the panel.
6. The panel shall consist of the following:
 - a] Two members selected by the Brooklyn Bar Association;
 - b] One member selected by the Brooklyn Women's Bar Association;
 - c] One member selected by the Kings County Criminal Bar Association;
 - d] One member selected by the Association of the Bar of the City of New York;
 - e] One member selected by the Columbian Lawyer’s Association of Brooklyn;
 - f] One member selected, annually on a rotating basis by one of the following four (4): Legal Aid Society of New York City; Brooklyn Legal Services, Corporation A; and South Brooklyn Legal Services; Bushwick Housing and Legal Services.
 - g] One member selected by the Chairman of the Board of Trustees of the Brooklyn Law School;
 - h] One member selected by the Metropolitan Black Bar Association:

- i] One member selected by the Puerto Rican Bar Association;
 - j] Each year, on a rotating basis, three of these groups shall be invited to participate and shall select their own member of the panel, provided such member meets the other criteria specified in this rule for membership: Lesbian & Gay Law Association of Greater New York (LEGAL), Lawyers Torah Club, Catholic Lawyers Guild of Kings County, Association of Black Women Attorneys, Brehon Law Society, Dominican Bar Association, Hispanic National Bar Association, Jewish Lawyers Guild, Judicial Friends, Metropolitan Women's Bar Association, New York State Women's Bar Association, Protestant Lawyers Association, and Asian American Bar Association of the City of New York, **United Jewish Organizations of Williamsburg, Inc., New York State Court Officers Association, Kings Bay YM-YWHA, Kings County Conference of the Knights of Columbus and the Federation of Italian-American Organizations of Brooklyn, Ltd.**;
 - k] Each year, on a rotating basis, one of these groups shall be invited to participate and shall select their own member of the panel, provided such member meets the other criteria specified in this rule for membership: Brooklyn-Manhattan Trial Lawyers Association, Association of Trial Lawyers of the City of New York, New York Criminal Bar Association, New York State Association of Criminal Defense Lawyers, and the New York State Bar Association;
 - l] [Two] **Three** members selected by the Chairperson of the Executive Committee of the Kings County Democratic Party, one of whom shall serve as the Chairperson of the Panel.
 - m] One member selected by the New York State Trial Lawyers Association.
 - n] Four Attorneys and Three Community Organization members selected by the Chairperson of the Executive Committee of the Kings County Democratic Party from a list nominated by a majority of the Executive Committee members from each of seven groups of Assembly Districts referenced in Provision 8 below. In selecting from such list, the Chairperson may not select nominees from a particular group in consecutive years. Members in this category may not hold any public office or party position or seek such office or position during their tenure on the Committee.
7. Every member of the Screening Panel [who is an attorney] must be an admitted member of the Bar of the State of New York in good standing and all members must maintain a residence or employment/practice in the Second Judicial District and be an enrolled member of the Democratic Party.

8. The Assembly District Groups shall be as follows:
 - a]40, 42, 58
 - b]41, 45, 59
 - c]46, 47, 48
 - d]44, 52,60
 - e]50, 53, 54
 - f]49, 51, 55
 - g]43, 56, 57
9. In the event that any of the groups specified in Section 6 ["a" through "m" inclusive] shall decline to participate, then additional groups shall be invited from those listed in Section 6 [j] to compensate therefore, thus endeavoring that the panel retains a ratio of members that are independent of the political party process as intended by these procedures.
10. Invitations to groups shall be delivered on or before February 15th of each year. Responses from each group and nominees from the Assembly District Groups shall be received on or before March 1st of each year. The fully-constituted panel shall be designated on or before March 1st of each year and shall meet, if at all possible, within the first two weeks of March of each year.
11. No candidate or Member of the Executive Committee may communicate with a member of the Screening Committee regarding the candidacy of any individual proposed for screening.
12. The Executive Committee and the Chairman, thereof, shall exercise due diligence in requiring the composition of the Screening Committee to reflect the racial, ethnic, religious, gender, and sexual preference diversity of the County of Kings.
13. Before undertaking any candidate evaluations, the Screening Committee shall adopt formal written criteria, upon which all such evaluations shall be based.
14. The Screening Committee shall be guided by and adopt Rules of Procedure, not inconsistent with the Blue Ribbon Advisory Panel to the Chairman of the Executive Committee of the Kings County Democratic County Committee with the exception of Recommendation IX. The Panel shall not treat a pending grievance as an automatic bar to a Recommendation.

15. Should the Screening Committee recommend fewer than five times the number of “Qualified” candidates for the total number of vacancies for the judicial offices to be nominated in any year, then the Committee shall continue to accept additional applications, from new applicants, until such threshold has been met.
16. The Chairman of the Committee shall be a voting member of the Screening Committee, should be chosen by the Chairman of the Executive Committee and serve for a two-year renewable term. Notwithstanding this, the Chairman shall serve at the pleasure of the Chairman of the Executive Committee and may be dismissed by the Chairman of the Executive Committee at any time.
17. The Screening Panel shall not be discriminatory in its decisions and should consider diversity when making determinations. The Screening Committee should consider the residence of the Candidate. The Screening Panel should consider the Community involvement of the candidate and his or her standing in their respective community.
18. The Panel shall make use of subcommittees and pre-interviews. The Panel shall institute an expeditious process allowing candidates to appeal screening panel decisions.
19. A quorum shall consist of at least two-thirds of the current members in good standing. A sixty percent (60%) vote of the quorum should be required for all decisions, except for the case of incumbent judges as stated heretofore **and further excepting that any candidate having been found “Qualified” in any year may only be found “Not Qualified at this time” in the following year upon a majority vote of a quorum.** Attendance of panel members shall be mandatory, and a member who fails to attend two (2) consecutive meetings without a satisfactory explanation should be dismissed.

new matter is underlined in Bold, matter to be deleted is in [brackets].

APPENDIX 6

Chart of Courts and their Selection Methods

Federal Courts

Court	Method of Selection
United States Court of Appeals	Judges are appointed by the President, with the advice and consent of the United States Senate
Federal District Court - Judges	Judges are appointed by the President, with the advice and consent of the United States Senate
Federal District Court - Magistrate Judges	Magistrate Judges are appointed by a majority of the judges in the District for which the appointment is made, or by the Chief Judge of the District
United States Bankruptcy Court	Bankruptcy Judges are appointed by a majority of the judges of the Court of Appeals in the Circuit, or by the Chief Judge of the Court of Appeals

State Courts

New York Court of Appeals	Judges are appointed by the Governor, with the advice and consent of the State Senate.
Appellate Division	Justices are appointed by the Governor; only elected Supreme Court Justices are eligible for appointment to the Appellate Division
Appellate Term	Justices are appointed by the Chief Administrator of the Courts, with the approval of the Presiding Justice of the appropriate Appellate Division; only elected Supreme Court Justices are eligible for appointment to the Appellate Term

Supreme Court	Justice are elected by judicial district; Interim Justices are appointed by the Governor, with the advice and consent of the State Senate. Acting Justices are appointed by the Chief Administrator of the Courts
Court of Claims	Judges are appointed by the Governor, with the advice and consent of the State Senate.
Surrogate's Court	Surrogates are elected by county
Criminal Court of the City of New York	Judges are appointed by the Mayor. Judges elected or appointed to other courts may be designated by the Chief Administrator of the Courts to sit in Criminal Court
Family Court (within the City of New York)	Judges are appointed by the Mayor. Judges elected or appointed to other courts may be designated by the Chief Administrator of the Courts to sit in Family Court
Civil Court of the City of New York	Judges are elected by county or by smaller judicial districts
Housing Part of the Civil Court	Judges are appointed by the Administrative Judge

APPENDIX 7

Relevant City Bar Reports and Comments ¹¹⁹

Council on Judicial Administration (hereafter "CJA") report, 1998, "The Chief Judge's Court Restructuring Plan, with certain modifications, Should Be Adopted"

Joint report of Committee on Criminal Advocacy and Committee on Criminal Courts, "Assignment of Judges in the Criminal Term of Supreme Court in New York County," May 1998

Judicial Selection Task Force report, October 2003, "Recommendations on the Selection of Judges and the Improvement of the Judicial System in New York"

Comments, 12/22/04, on proposed rule changes based on the reports of the Commission to Promote Public Confidence in Judicial Elections

Testimony of Alan Rothstein, March 9, 2005, before State Senate Judiciary Committee, recommending that political parties set up judicial screening committees

Amicus brief to the 2nd Circuit Court of Appeals in Lopez-Torres v. New York State Board of Elections, May 17, 2006

Judicial Selection Task Force report, December 2006, "Recommendations on the Selection of Judges and the Improvement of the Judicial System in New York State"

Amicus brief to the Supreme Court in New York State Board of Elections v. Lopez-Torres case, July 2007

Letter of CJA Chair Jay G. Safer, 9/21/09, commenting on proposed revisions to the rules of the New York State Commission on Judicial Nominations

Report, February 2011, opposing A. 309, which would have directed the Commission on Judicial Nominations to forward to the Governor all "well qualified" candidates for Associate Judge and/or Chief Judge

CJA Report, March 2011, in support of Ten-Year Renewal Terms for Housing Court Judges

CJA Report, July 2011, supporting S.4878-A, which would have allowed Housing Court Judges to be reappointed for ten years after the initial five-year appointment

¹¹⁹ These reports are available in the City Bar website
http://www2.nycbar.org/Publications/reports/index_new.php?type=subject&alpha=A.

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* Members of the subcommittee chaired by Hon. Andrea Masley responsible for writing this report.