



2018-2019 Guide to Judicial Endorsements

For HNBA internal use only

The Hispanic National Bar Association's (HNBA) principal goal in endorsing candidates for judgeships is to promote the selection of qualified Hispanic judges across the country with an emphasis on the federal courts. The HNBA endorses candidates who have demonstrated a commitment to equal treatment of all litigants, the fair administration of justice and the rule of law and who have been involved in, supportive of, and responsive to the issues, needs and concerns of the Hispanic community.

While the HNBA Policies and Procedures Governing Judicial Endorsements outline the criteria for endorsement, this complementary guide provides practical instruction for regional presidents spearheading the due diligence investigation and report.¹ We have also included a list of frequently asked questions about the endorsements process.

How does a candidate request a judicial endorsement from the HNBA?

A candidate seeking an HNBA endorsement should reach out to the regional president in his/her region and/or the Judicial Endorsements Committee Chair. Please keep in mind, that you can also reach out to recruit candidates. When a candidate contacts you, please direct him/her to send an e-mail requesting endorsement along with an updated resume, completed judicial questionnaire, and a list of references to the Regional President in his or her Region. The Regional President must then submit this to the HNBA President, President Elect, and Judicial Endorsements Committee Chair. The Endorsement Committee Chair and staff are available to talk directly with the candidate and to respond to any questions.

Once the HNBA has received the required materials, the HNBA will explain the requirements of a due diligence procedure and ask the respective Regional President to begin a due diligence investigation. The Regional President will confirm that they understand the requirements of due diligence and that the respective reviewer is able to commit to return a completed report no later than 3 weeks from the date of request from the HNBA.

After the due diligence report is submitted, the Regional President will be asked to present the report orally to the HNBA Board of Governors or in the limited circumstances of an expedited procedure to the HNBA President, President-Elect, and Chair of the Judicial Endorsements Committee and be available to answer questions about the candidate. The candidate will also be asked to be available to interview with the respective individuals.

If the candidate is endorsed by the HNBA, a deputy of the Judicial Endorsements Committee

¹ The criteria for endorsement are: 1. Qualifications: The HNBA will consider the following factors a. Integrity, character and professional reputation; b. Litigations, adjudicative, administrative and other professional experience; c. Scholarship and communication skills (oral and written); d. Judicial Temperament; e. Demonstrated commitment to the concept of equal opportunity and equal justice under law; f. The extent to which a candidate has been involved in, supportive of and responsive to Hispanics needs and concerns; and g. Membership in the HNBA, the local HNBA affiliate, other Hispanic bars or community service organizations serving the needs of Hispanics. The order of the above factors does not indicate their priority. In weighing these factors, a decision will be made based on the totality of the qualifications factors. 2. Statutory Criteria: The HNBA will endorse only those candidates who demonstrate that they satisfy the statutory requirements for the position they seek.

Chair will be responsible for drafting an endorsement letter for the National President's signature. When finalized, the endorsement letter will be submitted to the respective decision makers, including the U.S. Senators and the White House, if applicable.

How long does it take to complete the due diligence investigation?

We recommend that you conduct the investigation and complete the report within 3 weeks of receiving the request unless there is a holiday break, in which case the report should be completed within 4 weeks. The integrity of the process takes precedence over the speed but we want to turn around an endorsement decision to candidates as soon as possible. If your workload or other responsibilities prohibit you from meeting the 3-week deadline, we encourage you to involve your deputies to help you or to ask for an extension from the HNBA National Office.

If you reach out to references and they do not respond, ask the candidate if he/she can provide other references or find other people who know the candidate on your own, and let the HNBA National Office know that you are running into barriers. If you have not been able to speak with any references within 2 weeks after initiating the due diligence, you must advise the HNBA National Office so that they may help you find other references of individuals who know the candidate.

What steps do I need to take to complete the due diligence investigation and report?

We recommend that you begin with a thorough review of the candidate's judicial questionnaire. Are there any red flags that jump out at you? Do you have questions about the candidate's skills and experience? Consider all the materials, such as letters of recommendation that you receive from the HNBA National Office. You are required to set up an interview with the candidate to answer any questions that you have, and to ensure you can later answer the Board's questions about the candidate. Look for potential red flags, which may include a criminal background, disciplinary action against the attorney, lawsuits – particularly for malpractice against the attorney, gaps in employment, or financial irregularities. Any concerns or potential challenges to the candidate's endorsement should be highlighted in the due diligence report, regardless of whether the recommendation is to endorse. Also consider the position for which the candidate is applying – for judicial candidates, speak to counsel who has appeared before them, in addition to colleagues.

Internet Search

It is helpful to conduct an internet search of the candidate. There may be articles, blogs, social media or other media sources that reference or relate to the candidate. You will want to ask the candidate and references about these media reports. Also, try to the best of your ability to confirm the education and employment entries on the candidate's resume.

Reference Check

If the candidate has not provided a list of references, call the candidate to request such a list or speak with people in the legal community that know the candidate's personal and professional reputation. You also are expected to reach out to people who know the candidate other than those

provided by the candidate. Sample questions to ask references:

1. How do you know the candidate and how long have you known the candidate?
2. Are you familiar with the candidate's professional demeanor? If so, how would you characterize it?

3. What is the candidate's personal and professional reputation?
4. How would you characterize the candidate's character and integrity?
5. Do you know if there have ever been any criminal or civil charges brought against the candidate?
6. What do you think qualifies the candidate to serve as a judge for the court?
7. How would you describe the candidate's writing and analytical skills?

Review of Case Law

For a candidate who has already served as a judge, a review of their case law is helpful to determine their judicial temperament as well as writing and analytical skills.

Can I share information about the candidate with an affiliate organization?

The HNBA upholds the utmost confidentiality in regards to candidates seeking judicial positions. The judicial questionnaire, in particular, contains very sensitive information and should NOT be shared with anyone outside of the HNBA. If your deputy regional presidents assist you with the due diligence, please ensure they have signed the HNBA confidentiality agreement and they understand the sensitive nature of the information.

Even if an affiliate organization has already endorsed the candidate, do not share sensitive information outside of those immediately supporting your investigation. When in doubt, err on the side of caution.

Does the HNBA endorse non-Latino/a candidates?

Yes, the HNBA will consider endorsement requests from anyone. As you know, a person does not have to be Latino/a to join the HNBA, nor do they have to be HNBA members, although we encourage membership as it is a criteria that can be taken into consideration, per the HNBA Judicial Endorsements Policy.

Do you have a sample due diligence report?

On the next page, you will find an outline for the due diligence report. In addition, the HNBA office provides example due diligence reports with this guide.

CONFIDENTIAL MEMORANDUM

TO: HNBA Executive Committee

FROM: Name of Regional President or Deputy Regional President, Region #

DATE:

RE: Due Diligence Report for Candidate Name Seeking Appointment to the Middle District of State

INTRODUCTION

Provide a summary of the position the candidate seeks and where in the process s/he is so far.

BIOGRAPHY

In this section, include a brief summary of the candidate's personal and professional background. The committee will have the candidate's resume, therefore avoid repeating information on the resume. Rather, add information that you learned about the candidate that is not reflected in the resume.

DUE DILIGENCE

This section is the heart of the due diligence. In it, please describe the actions taken in order to perform a thorough review of the candidate's skills and demeanor. For example, highlight items of note from the candidate's judicial questionnaire (both positive and negative); describe how many people you interviewed about the candidate, who they are and what you gleaned about the candidate from the interviews; describe findings from internet research and other research; comments from professional references, etc.

Questionnaire

Highlight items of note from the candidate's questionnaire – what decision(s) are they most known for? Have they issued any controversial decisions or opinions? Did they complete the HNBA questionnaire, or did you use the Senate questionnaire completed by the candidate? Are there any potential points of controversy or red flags?

Interview

Provide an overview of what you learned about the candidate from your interview with him or her. Your report should also inform the Board as to where the candidate is in the selection or nominations process (Have they been nominated? Is a Senator or legislator supporting them? What other endorsements have they obtained? etc.).

Reference Check

List who you called, and their comments. For example, "Former Employer X described Candidate Y as hard-working, dedicated to the integrity of the legal process, etc..."

Again, highlight any potential controversy in the candidacy of the individual in question if applicable.

RECOMMENDATION

This section is very important. After you conduct the due diligence investigation, you will be an “expert” on the candidate’s background and qualifications. Therefore, given the information you have gathered, we ask that you conclude by stating whether you recommend endorsement of this candidate. If you do not recommend endorsement of this candidate, please explain your reasons in detail.

Even if you recommend endorsement, if there are points of controversy, you must note these points and provide a clear explanation as to why endorsement is still recommended by responding to these issues in this section.