



## HNBA GUIDE FOR JUDICIAL CANDIDATES

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### **Basic Qualifications for Candidates**

The U.S. Constitution guides the process for confirming a federal judge, but does not specify qualifications. Notably, a federal judge is not required to possess a law degree unless she serves as magistrate or bankruptcy judge. In most cases, those who assess judicial candidates may apply their own criteria (for example, HNBA has its own criteria. See Annex 1 and 3). As such, presidents and members of Congress develop their own standards for federal judgeships. The criteria taken into consideration by the HNBA per its judicial endorsement policy can be summarized as follows:

- Integrity, character and professional reputation;
- Litigations, adjudicative, administrative and other professional experience;
- Scholarship and communication skills (oral and written);
- Judicial Temperament;
- Demonstrated commitment to the concept of equal opportunity and equal justice under law;
- The extent to which a candidate has been involved in, supportive of and responsive to Hispanics needs and concerns; and
- Membership in the HNBA, the local HNBA affiliate, other Hispanic bars or community service organizations serving the needs of Hispanics.

### **Review of Candidates**

Federal judicial candidates are subjected to a thorough review including background checks conducted by the Department of Justice and the FBI. Past rulings of those with judicial experience are carefully examined. Former litigators will have their performance and tactics closely scrutinized. Any published writings, including academic papers dating back to college, will also be considered. In addition, decision-makers often weigh a candidate's public stance on certain issues, including prominent legal questions. A candidate's personal life may also be taken into consideration.

### **The Path of a Judicial Candidacy – How to be a Federal Judge**

A candidate for a federal judgeship undergoes two processes, a pre-nomination process, and a post-nomination process, should the person be chosen by the President. Each is described below:

### **Pre-nomination (the below is what an ideal process would look like)**

1. Candidate must formally apply for the position (per the application process stipulated in his/her state's judicial review commission or council, if applicable. Here are some examples of the commissions in [Florida](#) and [Minnesota](#)).
2. Candidate should request HNBA endorsement (ideally this candidate would submit his request to HNBA with sufficient time to have an HNBA endorsement included in his/her application).
3. Vetting process occurs.
4. HNBA board votes to endorse and issues a letter of endorsement.
5. HNBA shares its letter with the respective state Senators and the White House.
6. HNBA often conducts advocacy for its endorsed candidates before the White House and the Senate.
7. Ideally, the state's judicial council or commission recommends the candidate in its short list to the state Senators.
8. Candidate is placed on the final short list of both state Senators, and that short list is provided to the White House (even the support of just one Senator is important if the President is of the same political party).
9. The candidate is vetted by the White House, FBI, and undergoes the American Bar Association peer review process.
10. The President nominates the candidate for the position.

### **Post-nomination**

1. HNBA issues a statement about the nomination, continues advocacy before the U.S. Senate, and helps prepare the candidate for committee hearings.
2. The nominee goes through the committee process.
3. Nominee is voted out of committee (approved) and goes to the Senate floor for a vote.
4. The full Senate votes to approve the nomination; thus, the nominee becomes an appointee.

### **American Bar Association Endorsement**

The American Bar Association's committee on the federal judiciary reviews a candidate's integrity, competence, temperament and experience when considering an endorsement. The ABA prefers a minimum of 12 years of legal experience for a federal judge. A peer review process includes ABA interviews with a minimum of 40 lawyers and judges familiar with the nominee. An indication from the ABA that a candidate is "well qualified" or "qualified" is not necessary for confirmation but can help attract the necessary Senate votes for confirmation.

### **Political Activity**

Political activity can have an impact on a federal judge candidate. In a positive vein, support for a political cause or candidate can raise awareness of the nominee and garner support from like-minded politicians. Conversely, it can also raise the ire of Senators who stand in opposition to the cause and harm the nominee's ability to receive the votes needed for confirmation.

For any additional questions, you can reach out to Robert Raben, HNBA Endorsements Committee Chair, via Josilyn Sacks at [Jsacks@rabengroup.com](mailto:Jsacks@rabengroup.com).