

Rules Governing the Judicial Ratings Committee of the Cleveland Metropolitan Bar Association

Section 1: Definitions

- I.1 “CMBA” means the Cleveland Metropolitan Bar Association.
- I.2 “Board” means the CMBA’s Board of Directors.
- I.3 “Committee” means the CMBA’s Judicial Ratings Committee.
- I.4 “Coalition” means the Judicial Candidates Rating Coalition a/k/a Judge 4 Yourself.
- I.5 “President” means the CMBA’s President.
- I.6 “Chair” means the Committee’s Chair.
- I.7 “Vice Chair” means the Committee’s Vice Chair.
- I.8 “Candidate” includes judicial candidates for elected office, and applicants for vacancies to be filled by appointment.
- I.9 “Majority” as used in these rules means greater than 50% of votes actually cast, not counting abstentions. A majority is thus not the largest plurality.

Section 2: Purpose, Means, and Organization

- 2.1 This Committee’s overriding purpose is to improve the quality of the administration of justice for the public’s benefit. The Committee shall accomplish this purpose by any or all of the following non-exhaustive list of means:
 - (A) educating the public about the great importance of state, county, or municipal judicial offices, and candidates’ qualifications for those offices;
 - (B) evaluating the fitness for judicial office of persons seeking such office;
 - (C) educating bar members and the public at large regarding judicial qualifications;
 - (D) educating judicial candidates and members of the judiciary on the CMBA’s perception of their qualifications and performance; and
 - (E) impartially carrying out the procedures provided in these rules regarding candidates for judicial office.

To this end, this Committee, under these rules, shall assist the CMBA in publicly identifying those candidates for judicial office who possess or lack the requisite qualities for such office. It is not a Committee purpose to campaign for any candidate for judicial office. Subject to Board review, the Committee, in conjunction with the Coalition, may interview candidates and engage in educational and fundraising activities. Unless the CMBA’s President or Board

specifically requests, the Committee ordinarily shall play no role in the evaluation of persons to fill any federal-judicial office, although Committee members are not prohibited from seeking such appointment or from being involved as an individual in the evaluation of persons to fill such office.

2.2 *Committee composition, appointments, and leadership.*

- (A) *Committee composition and appointments.* The Committee shall consist of up to 60 members, comprised of at least 54 attorney CMBA members and up to six members appointed from the public at large (“Lay Members”). The Chair and Vice Chair shall recommend the appointment of Committee members to the President, subject to Board confirmation. There shall be three slates of up to 20 members appointed for three-year terms. The term of one slate shall expire each year. Reappointment of members is permitted. Vacancies shall be filled under Rule 4.3(B) below.
- (B) *Committee officers.* The President shall appoint the Chair and Vice Chair from among the attorney members of the existing Committee at the time of appointment. The Chair must have served at least one full three-year term on the Committee, or must have previously served on the Committee. The Chair and Vice Chair may serve up to three consecutive one-year terms subject to reappointment by the President.
- (C) *Role of the Chair.* The Chair shall preside at meetings of the Committee make reports to the Board as requested or as otherwise appropriate; identify and recruit prospective Committee members, and in the event of the unavailability of the Chair or Vice Chair, shall designate another Committee member to serve as Chair *pro tempore*.
- (D) *Role of Vice Chair.* The Vice Chair shall perform the Chair’s duties in the Chair’s absence, and such other duties as the Chair may delegate.

2.3 *Subcommittees.* The Committee may create such subcommittees with functions within the scope of the duties of the Committee as it shall determine. The Chair shall appoint members of subcommittees.

2.4 *Quorum.* A quorum shall consist of no fewer than 20 Committee members. Once a quorum is found, any action the Committee takes under its rules shall be valid for all purposes, regardless of the further additions to, or subtractions from, the quorum originally in attendance, as long as at least 15 members remain present.

Section 3: Qualifications for Committee Membership

3.1 *CMBA members’ eligibility and qualifications.* All persons appointed to the Committee, except the Committee’s Lay Members, shall be attorneys in good standing in the State of Ohio who are actively engaged either in some aspect of the trial or appellate practice, or teaching of law, and are members in good standing of the CMBA. To facilitate input regarding judicial candidates from all segments of the trial and appellate bar, the Chair and Vice Chair shall make efforts to recommend membership from practitioners of civil law, criminal law, domestic-relations law, juvenile law, probate and trust law, business-association law, civil-rights law, employment law, and other legal-related subject-matter

areas. The Chair and Vice Chair shall also make efforts to recommend members who concentrate their practices before the various courts of Cuyahoga County (i.e., general civil, criminal, domestic relations, juvenile, municipal, probate, and appellate). The Chair and Vice Chair shall also ensure the Committee's membership reflects diversity in background, experiences, viewpoints, and political affiliation, specifically including diversity by race, ethnicity, gender, sexual identity, and other demographic categories.

- 3.2 *Eligibility of Lay Members.* Lay Members shall be individuals with a demonstrated interest and involvement in community affairs, and be unrelated by family to any other Committee members.
- 3.3 *Non-eligibility.* No person shall be eligible to serve on the Committee who is, or contemplates:
- (A) running for an elected state, county, or municipal-judicial office that will appear on a ballot in Cuyahoga County, or seeking appointment to a judicial vacancy for such an office, during a term of appointment to the Committee;
 - (B) becoming, during a term of appointment to the Committee, a campaign chair, manager, treasurer, or other officer or member of a committee supporting a candidate for elected state, county, or municipal judicial office that will appear on the ballot in Cuyahoga County, or who is a publicly announced endorser or fund-raiser for a candidate for such judicial office;
 - (C) not being able to serve impartially, and without the appearance of impropriety, in passing upon the qualifications of candidates for judicial office consistent with these Rules and the Coalition's Governing Rules; or
 - (D) serving without a commitment to give a genuine effort to be present for a majority of the Committee's meetings and interview sessions in each year of service.
- 3.4 *Prohibitions on contributions or participation.* While serving on the Committee, no Committee member shall, directly or indirectly, contribute to or participate in any campaign of any candidate for elected state, county, or municipal-judicial office that will appear on the ballot in Cuyahoga County, or the effort of any person to be approved to fill a judicial vacancy. This section shall not, however, prohibit any Committee member from making a contribution to the CMBA's Partners for Community Engagement. If a Committee member, member's spouse, member's dependent child, or firm or employer contributes to or participates in such a judicial campaign, or effort to fill a judicial vacancy, then that member shall be recused from discussion and participation in the interview and vote regarding that race. In the event that a donation is made by a Committee member's firm or employer, the member may participate in the interview and vote regarding that race if the member did not participate in the decision to donate to the candidate.

This section shall not prohibit a judge or judicial candidate from being a CMBA Director. A Director whose name appears on the Cuyahoga County ballot shall

be excluded, however, from discussions and votes concerning all candidates' ratings.

Section 4: Rules Governing the Committee's Performance

- 4.1 *Pledge of Confidentiality and Absence of Conflict of Interest.* Each Committee member shall sign a Pledge of Confidentiality and Absence of Conflict of Interest that the Committee may amend from time to time, agreeing to hold strictly confidential all information the Committee obtained through questionnaires, investigations, interviews, or other sources, the Committee's deliberations and members' votes, the Committee's report and recommendations to the Board regarding the ratings to be given to judicial candidates, with the exception of the CMBA's final ratings after the Board has officially announced them.
- 4.2 *Grounds for dismissal.* Any violation of the confidentiality-pledge or requirement of absence of conflict of interest, disrespectful or unprofessional treatment of a candidate during interview sessions, or failure to attend at least 50% of the Committee's meetings and interview sessions in any year may be among the grounds for dismissal from the Committee. Dismissal for a violation of the confidentiality-pledge or requirement of absence of conflict of interest, or for disrespectful or unprofessional treatment of a candidate during interview sessions, shall be upon the unanimous decision of the Chair, Vice Chair, and President. If the decision is not unanimous, dismissal shall be upon a majority vote of Committee members attending a meeting to consider such an issue. The Chair or President may dismiss a member for nonattendance.
- 4.3 *Appeals of dismissal and vacancies.*
- (A) A Committee member may appeal a dismissal within 30 days in writing to the Board through the CMBA's CEO. The appeal will allege the reasons the decision is incorrect. The Board will decide the appeal at its next meeting, following the CEO's receipt of the appeal. The Board's decision is final. Dismissal is effective until an appeal reverses the decision.
 - (B) At the request of the President, the Chair may respond in writing to an appeal or appear at a Board meeting to explain the reason for the dismissal.
 - (C) Upon a Committee-membership vacancy, the President shall appoint a replacement to fill the member's unexpired term, subject to Board approval.
 - (D) The Board shall not vote on approving the replacement of any member until it resolves any pending appeal.
- 4.4 *Impartiality.*
- (A) Because the perception of impartiality is as important as the reality of it to the Committee's work, any Committee member must disclose to the Chair any circumstance that might cause a reasonable person to question the impartiality of that Committee member as to a particular judicial candidate. Non-exhaustive examples of matters that must be disclosed

include familial ties, past or present law-practice associations, past political support, and business dealings. The Chair shall determine the appropriate remedy, including, but not limited to, disclosing the circumstances to the Committee, excusing the member's presence for the candidate interviews for that office or restricting the member's ability to ask questions in the interview, excusing the member's participation in the Committee's deliberations for that office, and/or voting on the candidate or office. Should a Committee member fail to disclose as required under this section, and should a Committee-majority vote later determine that such a circumstance existed and was known to the Committee member, such non-disclosure may be grounds for dismissal from the Committee.

- (B) Information distributed to judicial candidates should make it clear that if a candidate believes, prior to the Committee's interview, that one of the Committee's members in attendance may lack impartiality concerning a particular judicial candidate, the candidate should call that belief to the Chair's attention. The Chair should attempt to resolve any such issue as soon as possible, before the interview begins.
- (C) If an issue concerning any Committee member's impartiality arises after any interview, but before the public announcement of the Committee's recommended ratings, such investigation and action shall be taken as is deemed appropriate in the Chair's discretion. While the Chair may investigate and take appropriate action internally as to any such issue received after public announcement of the Committee's recommended ratings, no rating shall be changed.

- 4.5 *Coalition participation and confidentiality.* No violation of the confidentiality pledge under Section 4.1 occurs if Committee members who have participated in a joint interview of a candidate under the auspices of the Coalition participate in the discussion of that candidate's qualifications in joint session with other members of the Coalition, provided that the CMBA is a Coalition member and the Coalition members are bound by confidentiality rules substantially similar to those stated above.

Section 5: Finances

The Committee shall not, without prior Board approval, obligate the CMBA for any expenditure for which the CMBA, as agent for the Coalition, is not holding either funds or a pledge of funds.

Section 6: Biographies of Candidates

- 6.1 *Information to be gathered.* The Committee shall submit to each candidate for judicial office, after his or her official declaration of candidacy, a biographical questionnaire, together with the appropriate waiver form, probing the candidate's general background, the nature of his or her law practice, his or her litigation and/or appellate experience, any relevant medical or psychiatric condition that may impact his or her ability to discharge the duties of the office sought, his or her business connections, his or her prior judicial experience, disciplinary history, and any other areas the Committee deems appropriate. The Committee will also seek legal writing samples from candidates for the Court of Appeals that the candidate can certify are substantially if not entirely his or her own work product. If the Committee is a Coalition member, the Committee shall endeavor to use whatever standardized information that the Coalition gathers from candidates, unless the Committee, by majority vote, requires additional information.
- 6.2 *Ensuring that the information is gathered.* At the time the questionnaire and waiver are sent, the Committee shall advise the candidate of the date that the candidate must return the documents. If the Committee receives no response by the due date, the Chair or his or her representative shall make reasonable attempts to contact the candidate promptly by telephone or email to ascertain the candidate received the questionnaire and waiver and to determine why the candidate has not returned the questionnaire and waiver. If the Committee is not successful in contacting the candidate by telephone or email, a letter should be sent by certified mail to the address of the candidate on file at the Board of Elections (or in the case of judicial vacancies, the last-known professional or personal address) reminding the candidate of the due date for the questionnaire and waiver, and requesting that the candidate contact the CMBA if he or she did not receive the material.

Section 7: Bar Poll

- 7.1 *Seeking membership views.* The Committee shall, at least 10 days prior to the Committee's deliberations, submit to all current CMBA members a bar poll requesting views concerning the judicial candidates to be rated.
- 7.2 *Views sought.* For each candidate, the bar poll shall ask respondents to evaluate separately each candidate's competence for the position sought, diligence, integrity, and temperament and demeanor using the defined terms of excellent, good, satisfactory, or not recommended. The poll will explain the meaning of each criteria and each rating as stated in Section 9.2(A) below. CMBA members shall be asked not to rate any candidate about whom the member has insufficient knowledge to form an opinion. The poll shall also seek CMBA members' qualitative comments about the candidates to explain the ratings. The Committee may ask such additional questions in the bar poll that would assist it in its deliberations.

Section 8: Candidate Interviews

- 8.1 *Interview and consequences of failure to appear.* Regardless of whether a candidate has submitted a response to the biographical questionnaire, the candidate shall be invited for a personal interview to enable the Committee to evaluate the candidate's qualifications. The Committee may expand upon the questionnaire, if submitted, or discuss any other matter concerning the candidate the Committee deems appropriate. As long as the CMBA is a Coalition member, the Committee may give a "Refused to Participate" or "Not Recommended" rating to a candidate who refuses or fails to appear for an interview, to complete the questionnaire or other requested information, or to sign the jurat or the waiver. The Committee and the candidate may mutually waive an interview if the Committee deems it appropriate in a particular circumstance, including, but not limited to, a belief that the candidate has good cause for being unable to attend.
- 8.2 *Breadth of information upon which Committee may rely.* The Committee shall not be limited to the information the candidate supplied. If a candidate does not submit a questionnaire or complete the jurat or waiver form, the Committee may conduct its own investigation and/or act upon whatever information is available to the Committee.
- 8.3 *Grievance and disciplinary history.* If permitted by the Supreme Court Rules for the Government of the Bar of Ohio, or if otherwise waived by the candidate, the CMBA's Bar Counsel or his or her designee or designees, prior to the interview, shall have reviewed the CMBA's and all other available grievance files regarding the candidate and shall have advised the Committee of any material relevant to evaluating the candidate's fitness for judicial office.
- 8.4 *Supplementing information.* The Committee may thereafter, from time to time as it sees fit, request any such candidate to supplement or update his or her answers.

Section 9: Voting Process and Committee Recommendations

- 9.1 *Prior ratings and providing information.* The Chair shall advise the Committee if the candidate has appeared before the Committee previously and provide any previous ratings. The Chair will also provide the Committee with the current information gathered in sections 6 through 8 above.
- 9.2 *Ratings.*
- (A) *Ratings generally.* After considering the information provided and any interview, the Committee shall rate each judicial candidate in the primary and general elections on each of the following equally-weighted criteria as appropriate to the judicial office sought:
- Competence for the Position Sought,
 - Diligence,
 - Integrity, and
 - Temperament and Demeanor

The Committee shall also give significant consideration to any majority vote in the bar poll, where greater than 100 votes are cast, that a particular candidate is “Excellent” or “Not Recommended.” The Committee’s recommendation for each candidate shall be “Excellent,” “Good,” “Satisfactory,” or “Not Recommended.”

- “Excellent” means the candidate exceeds most or all of the criteria expectations.
- “Good” means the candidate exceeds some of the criteria expectations.
- “Satisfactory” means the candidate meets the criteria expectations.
- “Not Recommended” means the candidate does not meet the criteria expectations. “Not recommended” may also include a situation where a candidate fails or refuses to appear for an interview or complete the questionnaire or sign the jurat or waiver, and the Committee has sufficient information to evaluate the candidate.

Committee members shall rate candidates based on individual qualifications, and should not compare competing candidates, except when designating “Preferred” or “Least-objectionable” ratings as provided below. Nothing shall preclude the Committee from giving the same rating to opposing candidates in any particular race. If the CMBA is a Coalition member, the Committee may use a “Refused to Participate” rating for a candidate in the circumstances provided in the Coalition rules.

- (B) *Majority.* The recommendations shall be determined by the majority of those Committee members voting.
- (C) *Decision not to interview or rate.* Despite the general duty to rate, the Committee may decide not to interview and/or rate unopposed candidates for elections or appointments if time constraints do not permit.

9.3 *Additional designations where ratings are equal.*

- (A) *“Preferred” designation.* The Committee may, upon a seconded motion, also designate as “Preferred” a particular candidate for each race, where the opposing candidates are equally rated. Except as provided in (B) below, a preference rating will be given only by a supermajority vote of 60%. The word “Preferred” will be listed after the candidate’s name, such as: “John/Jane Doe - Excellent - Preferred.” Only Committee members who were present for all interviews for a particular office may vote on a preference for that office.
- (B) *“Least-objectionable” designation.* If the Committee rates both candidates in a race as “Not recommended,” the Committee may, upon a seconded motion, designate as “least objectionable” a candidate in the race. A “Least-objectionable” designation will be given only by a supermajority vote of 60%. The words “Least objectionable” will be listed after the candidate’s name, such as: “John/Jane Doe – Not recommended– Least objectionable.” If there is no “Least-objectionable” designation, then the Committee will state the following after the “Not recommended” rating:

“The Cleveland Metropolitan Bar Association is not able to recommend any candidate for this position.” Only Committee members who were present for all interviews for a particular office may vote on a “Least-objectionable” designation for that office.

- 9.4 *Who may vote and comments.* A Committee member may vote on a particular candidate only if that member was present for the interview with the candidate, if such an interview occurred, and was present for the Committee’s discussion of the candidate’s qualifications. The Chair and Vice Chair may vote. There shall be no voting by proxy.
- 9.5 *Voting process.* Voting shall be conducted pursuant to the process adopted by the Coalition.
- 9.6 *Recommendation to Board approval or reversal.*
- (A) *Report to Board.* The Committee’s ratings and preferences will be contained in a report forwarded to the Board for final approval. All reports of recommendations to the Board shall include the numerical division of the votes cast regarding each recommendation made.
 - (B) *Presumption of regularity.* There shall be a presumption of regularity accorded the Committee’s report and recommendations.
 - (C) *Minority appeal to the Board.* A Committee member may appeal in writing to the Board, through the Chair, seeking to have the Board alter the Committee’s recommendation, as long as the appeal is joined by four additional Committee members expressing agreement. The appeal must be submitted within three days of the Committee’s vote and explain with particularity why the Committee’s recommendation is clearly erroneous. The Chair shall submit the appeal with the Committee’s report to the Board. The Board, in its discretion, may choose to conduct a hearing on the appeal, where only Committee members may present information. The appeal and any hearing shall remain confidential. The Board shall render its decision on the appeal through the procedure established for its approval or rejection of Committee recommendations, under subsection 9.7(D), below.
 - (D) *Board action.* The Board shall not alter any Committee rating and/or preference absent a showing that the Committee’s rating and/or preference is clearly erroneous. The Board may review the bar poll in conducting its review, although a marked divergence between the bar poll and the Committee rating is not, by itself, evidence of a clearly erroneous rating or preference. Any change of a Committee rating and/or preference requires the concurrence of 75% of the members of the Board present at the meeting. Only Board members in compliance with Section 3.4 regarding no contributions to or participation in a judicial campaign, or efforts to fill a judicial vacancy shall participate in this vote.

Section 10: Judicial Vacancies

- 10.1 *Judicial vacancies generally.* When a vacancy occurs in any elected state, county, or municipal-judicial office that will appear on the ballot in Cuyahoga County, the Committee may report to the Board for recommendation to the Governor of Ohio, a list of CMBA members to fill such vacancies. In its report to the Board, the Committee may indicate its order of preference for those CMBA members whom it considers qualified. The Committee report shall be based on professional considerations alone, and shall not consider as a factor the likelihood of appointment, or supposed ability or inability to retain the judicial office in a primary or general election. In deciding whether a CMBA member is qualified for appointment to fill a judicial vacancy, the Committee shall consider the potential appointee's competence for the position sought, diligence, integrity, and temperament and demeanor.
- 10.2 *Appointees.*
- (A) *Identifying potential appointees.* Before making its recommendation, the Committee may seek to ascertain the identities of potential appointees by whatever means are reasonably available to it. Thereafter, the Committee shall invite potential appointees to appear before it for the purpose of reviewing their qualifications for the vacant post.
 - (B) *Information sought and process.* The Committee shall seek from each potential appointee for a judicial vacancy known to it the information requested of elected candidates consistent with Sections 6 and 8, above. The Committee and Board will also endeavor to follow the same process as is used for ratings for judicial elections.

Section 11: Miscellaneous Provisions

- 11.1 *Feedback to and from candidates.*
- (A) *Educational feedback to candidates.* The Chair, Vice Chair, and/or Chair's designee may provide face-to-face, targeted, limited, oral constructive feedback to judicial candidates explaining in a generalized way the considerations that may have resulted in the particular rating, as long as such feedback does not result in any individually identifiable Committee-member information being conveyed, explicitly or implicitly. If such feedback is to be given, it must be conveyed to the candidate when at least two designated Committee officers or members are present. The sole purpose of this provision is to provide constructive feedback to judicial candidates and members of the judiciary to improve the quality of justice for the public, and the feedback given should be limited to advance this constructive purpose.
 - (B) *Feedback from candidates.* The Committee's officers or the Chair's designee may also elicit feedback from candidates regarding the process and their experiences to further improve the Committee's work.
 - (C) *Feedback to be shared with Committee.* Any feedback to or from candidates shall be shared with the Committee.

- 11.2 *Ratings changes and false information.*
- (A) *Ratings changes.* The CMBA’s position regarding the rating of a candidate for judicial office may be changed at any time during the period of such person’s candidacy if sufficiently compelling circumstances present themselves.
 - (B) *False information.* If the Committee, by a majority vote of those present at a meeting called for such purpose, determines that a candidate has given false information regarding a material matter, or that the candidate is violating or has violated the ethical standards governing his or her professional conduct or judicial office, or that other circumstances exist warranting action under this subsection, the Committee may recommend to the Board that the CMBA revoke any rating previously given a candidate, that the CMBA change its position on such candidate, or that the CMBA take such other action regarding the candidate as deemed appropriate under the circumstances, including referral to the Office of Disciplinary Counsel.
- 11.3 *Means to effect purpose.* The Committee may use, subject to Board approval, such means as are appropriate to carry out the intent of these Rules.
- 11.4 *Candidate use of ratings.* Any candidate who wishes to use the CMBA rating shall use in his/her campaign literature, publicity and oral presentations only the rating categories or terminology of the CMBA (i.e., “Excellent,” “Good,” “Satisfactory,” or “Not Recommended,” “Refused to Participate,” “Preferred” (if designated), and “Least Objectionable” (if designated)) regarding the race in which the CMBA awarded such rating. Use of other terminology may be grounds for reconsideration of the rating the CMBA gave to that candidate, or other appropriate action as the CMBA may deem advisable.
- 11.5 *Reports regarding Coalition.* The Committee shall report to the Board concerning the activities of the Coalition at least once a year. If the Committee determines that CMBA participation in the Coalition is no longer consistent with the purposes of the Committee, the Committee shall first submit that recommendation for Board review and approval.
- 11.6 *Transparency.* The Committee will post these Rules on the CMBA’s website, request that the Coalition provide a link to these Rules on its website, and make the Rules available to candidates, media, and the public upon request.

Approved by the Cleveland Metropolitan Bar Association
Board of Directors on July 17, 2019