#### SAN DIEGO COUNTY BAR ASSOCIATION

#### Judicial Election Evaluation Committee Rules

#### 1. Preamble

The election of qualified judges to the Superior Court, State of California, County of San Diego is fundamental to the effective, local administration of justice. Article 6, Section 16 of the California Constitution outlines the process by which the electorate votes for Superior Court Judges in California; however, information regarding judicial candidates is not readily available to the voting public.

In 1978, the San Diego County Bar Association (SDCBA) created the Judicial Election Evaluation Committee (JEEC) to evaluate and rate candidates running in a judicial election as a public service to the San Diego community at large. The JEEC process is similar to the process utilized by the state's Judicial Nomination Evaluation (JNE) Commission, that reviews and rates applicants who have submitted an application for a judicial appointment by the Governor.

#### 2. Committee Membership and Selection

#### 2.1 Committee Membership

The Committee is comprised of 21 voting members, including the Committee Chair, who represent a cross-section of San Diego's diverse legal community and who shall each serve four year terms. No member of the SDCBA Board of Directors may serve as a member of the JEEC.

Prior to participating in any JEEC meetings, committee members are required to sign confidentiality forms and are prohibited from disseminating any information to the public or the media.

#### 2.2 Selection of the Committee Members and Officers

The Committee Chair and members are appointed by the SDCBA President and confirmed by the Board of Directors.

#### 2.3 Removal of Committee Members

On a showing of good cause, the Board of Directors may remove a member from the Committee before the expiration of the member's term. Good cause shall include, but is not limited to: (1) the unexcused failure to attend Committee meetings or perform Committee work or (2) a breach of the duties of confidentiality.

#### 2.4 Committee Member Resigns

If a committee member resigns prior to their term expiring, a new member will be appointed to fulfill the remainder of the term.

#### 3. Confidentiality

#### 3.1 General Duties of Confidentiality

Strict adherence to rules of confidentiality is essential to enable the Committee to perform its assigned function. All investigations, questionnaire responses, interview records, discussions and proceedings of the Committee shall be absolutely confidential. No member of the Committee shall disclose to anyone not a member of the Committee any actions taken by the Committee or any matters discussed at a Committee meeting pertaining to the rating of any candidate evaluated by the Committee. The votes or comments of individual Committee members shall not be disclosed, nor shall the numerical votes of the Committee as a whole be disclosed.

#### 3.2 Confidentiality as Part of the Investigative Process

Committee members shall not discuss information received about any candidate with any person except for the purpose of confidential inquiry during the investigation process. Sources of specific information shall not be disclosed to any candidate, and Committee members shall take all reasonable precautions to ensure that any information disclosed to a candidate does not inadvertently reveal a confidential source.

#### 3.3 Pledge of Confidentiality

Before accepting his or her appointment, each member of the Committee will sign a pledge to adhere to the obligations of confidentiality imposed by these rules.

#### 3.4 Breaches of Confidentiality

The Chair of the Committee shall recommend to the Bar Board of Directors the immediate removal of any Committee member who breaches the duties of confidentiality.

#### 4. Conflicts of Interest

#### 4.1 Procedures for Disqualification

The initial letter from the Committee Chair to all judicial candidates shall include a list of Committee members. In response to this letter, candidates may submit a written request within seven days seeking the disqualification of any Committee member they believe cannot conduct an impartial evaluation. Committee members may also disqualify themselves on the same basis.

#### 4.2 Standard for Disqualification

The Committee shall endeavor to avoid even the appearance of partiality or bias. The Committee Chair shall rule on all requests for disqualification and shall notify the candidate in writing of the decision.

#### 5. Ratings and Basis for Evaluation

#### 5.1 Ratings Used by the Committee

The Committee will rate candidates using the following scale:

"Well Qualified": Possessing professional ability, experience, competence, integrity and temperament indicating exceptional ability to perform the judicial function with a high degree of skill and effectiveness.

"Qualified": Possessing professional ability, experience, competence, integrity and temperament indicating satisfactory ability to perform the judicial function.

"Lacking Qualifications": Lacking one or more of the essential abilities or skills to satisfactorily perform the judicial function.

If the committee did not receive sufficient information from persons who know this candidate to fairly and adequately evaluate this candidate's ability to perform the judicial function, the candidate may be deemed "Unable to Evaluate".

#### 5.2 Basis for Evaluation

The Committee shall evaluate candidates based on their qualifications to serve as judicial officers. Factors taken into consideration may include the candidate's (1) judicial temperament, (2) intellect and ability, (3) knowledge of the law, (4) trial experience, (5) professional reputation, (6) industry and work habits, (7) decisiveness, (8) fairness and objectivity. (9) courtesy and patience, (10) humor and perspective, (11) judgment and common sense, (12) compassion and understanding, (13) integrity and honesty, (14) administrative ability, (15) community respect, (16) physical and mental health, (17) courage, (18) writing and research skills, and (19) any other factor that might affect the candidate's ability to serve as a judge. If a candidate has been evaluated by the Committee in a prior election, the Committee may consider the earlier rating in conjunction with its current evaluation. If the candidate did not cooperate with the subcommittee investigation, the Committee should make best efforts to complete an objective evaluation, but the candidate's lack of cooperation may be considered. If less than 20 persons who know the candidate respond to the Committee's inquiries, the candidate may be deemed "Unable to Evaluate". A candidate's refusal to participate in the process may be considered by the committee in the evaluation process.

#### 6. Investigation Procedures

#### 6.1 Personal Data Questionnaires

The Chair will send to each judicial candidate a letter explaining the Committee's evaluation process. This letter will include a copy of these Rules and a Personal Data Questionnaire (PDQ). The purpose of the PDQ is to solicit information from each candidate that will assist the Committee in evaluating the candidate.

#### 6.2 Confidential Questionnaires

#### 6.2.1 Nature of the Questionnaire

A Confidential Questionnaire (CQ) is designed to solicit information about judicial candidates from persons other than the candidate. The CQ is a generic form that allows the respondent to designate the candidate about whom they are responding. Any names submitted in the candidate's PDQ will be asked to submit a CQ to aid in the evaluation process.

#### 6.2.2 Dissemination and Return

The Committee will make best efforts to disseminate CQs to all members of the Bar Association, and may distribute them to other groups and individuals as it deems appropriate. A copy of the CQ will be included in the Chair's letter to all judicial candidates, and the candidates will be invited to make and distribute copies to persons who know them. The CQ will specify that completed questionnaires should be marked "Confidential" and returned to the Committee Chair.

#### 6.2.3 Contents

The CQ will require respondents to provide their name, address and phone number so that the assigned subcommittee can follow up with the respondent in order to corroborate any negative information provided in the CQ. Any CQ not including this information shall not be considered by the Committee. A respondent, however, may request that his or her identity not be disclosed to anyone other than the investigating subcommittee. The CQ will solicit the respondent to identify other persons who know the candidate well.

#### 6.3 Subcommittee Investigations

#### 6.3.1 Organization of Subcommittees

The Chair will organize the Committee into subcommittees of at least three persons each, and will assign candidates to each subcommittee for investigation. One member of each subcommittee will be designated as the subcommittee chair. To the extent possible, candidates competing with each other in a single judicial race should be assigned to different subcommittees for investigation.

#### 6.3.2 Review of Questionnaires

To help assure confidentiality, the Chair will distribute completed CQs only to members of the subcommittee investigating the particular candidate. The investigating subcommittee should investigate all credible information received and make reasonable efforts to contact a sufficient number of CQ respondents to assure itself that it has a comprehensive picture of the candidate. It should, at a minimum, attempt to contact all respondents who provided negative information about the candidate, even if the respondent gave the candidate an overall satisfactory rating. The CQ will also be used as a template for any additional input received by the subcommittee during its investigation.

#### 6.3.3 Input by Committee Members

No Committee member shall provide information about a candidate to the Committee except by completing a CQ . Committee members who have submitted CQs on a candidate, but are not otherwise disqualified, may vote on the candidate. They may not, however, make oral comments about the candidate during Committee deliberations, nor shall they otherwise discuss the candidate with any Committee member other than a member of the investigating subcommittee.

#### 6.3.4 Other Types of Input

As part of its follow-up investigation on information obtained from the CQs and PDQs, the investigating subcommittee may accept information verbally or in writing from persons who wish their names to remain confidential. All information received is subject to secondary verification.

#### 6.3.5 Candidate Interviews

When the subcommittee has completed its review of the PDQs, CQs, and its follow-up investigation, it shall offer each candidate the opportunity to meet with the members of the subcommittee to discuss the candidate's qualifications and to respond to any credible negative information that may have been presented to the subcommittee. All members of the subcommittee shall participate in this interview. Consistent with obligations of confidentiality, all credible adverse information received by the subcommittee should be disclosed to the candidate before or during the interview. The source of any negative comments shall remain confidential.

#### 7. Evaluation Procedures

#### 7.1 Subcommittee Reports

Each subcommittee shall submit a confidential written report on each candidate it was assigned to investigate. The report shall be distributed to all Committee members, and should summarize the results of the subcommittee investigation and recommend a rating for the candidate. If the candidate did not return a PDQ and/or declined the invitation to meet with the subcommittee, and/or otherwise refused to cooperate with the subcommittee's investigation, such lack of cooperation may be considered by the subcommittee when determining the final rating.

#### 7.2 Committee Deliberations and Voting

#### 7.2.1 Quorum

At least sixteen members of the Committee must participate in person or telephonically to constitute a quorum to evaluate any candidate.

#### **7.2.2** Voting

The Committee will vote for a rating to be assigned to each candidate, using the ratings provided for in Rule 5. If the first tally shows votes for each of the three ratings, the rating with the fewest votes will be eliminated and a second tally taken, so that the assigned rating represents a majority of the Committee members voting on the particular candidate.

#### 7.2.3 Appeals

Any candidate that the Committee proposes to rate "Lacking Qualifications" is

invited to appear personally before the full Committee to contest the proposed rating. The Committee chair shall make reasonable efforts to contact such candidates at least two (2) business days before the time designated for personal appearances and inform them, consistent with the Committee's obligations of confidentiality, of the nature of the information on which the Committee has based its tentative rating of "Lacking Qualifications". The Chair should encourage the candidates to address this information when they appear before the Committee. The Committee shall take a new vote on each candidate who exercises the right to appear personally before the Committee.

#### 7.3 Board Action and Public Dissemination

The Committee's final ratings will be submitted to the Board of Directors in a written report, and the Board shall adopt or reject the Committee's report in total. A report will be rejected only if the Board concludes that there has been a procedural error affecting the fundamental fairness of the evaluation process.

#### 7.4 Reconsideration after Primary

As a general rule, the Committee will not reevaluate candidates participating in a runoff election. But if, after the primary, the Chair receives written, substantiated information that he/she believes may change the earlier rating, the Chair may call for reconsideration. Reconsideration will be granted on the majority vote of the Committee. If reconsideration results in a different rating for any candidate, that change will be reported to the Board of Directors in the same manner as the original rating, subject to rule 7.2.3.

#### 8. Retention and Destruction of Committee Documents

All Committee documents other than the final report to the Board shall be retained until three months after the election, but shall thereafter promptly be destroyed to preserve the confidentiality of the Committee's deliberations.

### SAN DIEGO COUNTY BAR ASSOCIATION JUDICIAL ELECTION CAMPAIGN CODE OF ETHICS

#### I. Statement of Purpose

#### A. <u>Judicial Election Campaign Code of Ethics</u>

The purpose of the Judicial Election Campaign Code of Ethics is to promote the discussion of issues and qualifications in fair and open public debate and to encourage candidates to conduct campaigns for judicial office mindful of the honor and dignity of the Judiciary and the legal profession. As a participant in the election of judges through the evaluation of candidates for judicial office, the San Diego County Bar Association recognizes that the campaign process lies at the heart of our democracy. The San Diego County Bar Association maintains that campaign conduct reflects a candidate's integrity and values.

#### II. Standards of Conduct for Judicial Candidates

Recognizing that Canons of the Code of Judicial Conduct relating to judicial elections are binding on both judges and candidates for judicial office, and that the dignity and integrity of judicial office requires that candidates for that office conduct their campaign on a level which is commensurate with those requisite characteristics of conduct in a campaign for judicial office, the following are set forth as the minimum standard of such campaign conduct. Candidates should be primarily concerned with overall ability to perform judicial tasks in an impartial, competent, and effective fashion.

- A. Candidates and their supporters shall not engage in, or permit any statement, campaign material or advertisement which misrepresents, distorts, or otherwise falsifies the facts regarding any candidate, including himself or herself.
- B. A statement of a candidate's political, social, or legal views shall not be made under circumstances or in a manner that could reasonably be construed as a promise, or as an indication of how the candidate would decide specific cases as a judge.
- C. Statements concerning the change or modification of court structure, calendar or programs, which require the concurrence of fellow judges or legislative enactments shall be qualified as such and not imply that the candidate alone can accomplish those goals.
- D. Candidates and their supporters shall not make any statement about individual cases or matters involving conduct by the opposing candidate, whether a judge or a lawyer, that have no bearing upon the candidate's ability to perform in the judicial position being sought. Candidates and their supporters shall not make any statements about personal character and/or traits of the opposing candidate, whether a judge or a lawyer, which have no bearing upon the opposing candidate's ability to perform the judicial position being sought.

- E. Candidates and their supporters shall not make any statement, either oral or written, which exposes any opponent to hatred, contempt, ridicule, or obloquy, or which tends to injure him or her with respect to his or her profession if (a) the candidate knows the statement to be untrue, or (b) the candidate is aware of the facts contradicting the truth of the statement and has failed to conduct a reasonable investigation under the circumstances and sufficient to lead the candidate to believe the statement is probably true.
- F. Candidates and their supporters shall not engage in, or permit any unwarranted invasions of personal privacy.
- G. The candidate shall immediately and publicly repudiate support or independent expenditures deriving from any individual or group which resorts, on behalf of the candidate or in opposition to opponents of the candidate, to methods and tactics prohibited by this Code. The candidate shall accept responsibility to take immediate and firm action against any subordinate who violates any provision of this Code or the laws governing elections.
- H. The candidate shall not use or permit any appeal to negative prejudice based upon race, sex, religion, ethnicity, sexual orientation, or age.
- Candidates shall not comment on any physical characteristic of any opponent unless such characteristic impairs the opponent's ability to perform the duties of a judicial office.
- J. Candidates shall strictly comply with all relevant campaign laws.
- K. All campaign materials which include excerpts from newspaper articles or editorials shall not be used in such a context as to imply the newspaper's endorsement unless such excerpt is from an actual newspaper editorial making such an endorsement.
- L. No candidate shall use his or her SDCBA judicial evaluation to imply that the candidate has received an endorsement from the SDCBA. The candidate may only include in campaign material the SDCBA's determination of the candidate's level of qualification.
- M. The candidate is personally responsible for the truth and propriety of campaign material and must approve all campaign and advertising materials prior to their publication or dissemination.
- N. Candidates and their supporters shall refrain from making any statements or taking any positions concerning matters pending before the court or on appeal, or concerning matters that may come before the candidate once elected.

#### **CANDIDATE'S VERIFICATION OF RECEIPT**

legal profes:	e in a manner that maintains the honor and dignity of the Judiciary and the sion. I have received and read the San Diego County Bar Association's
Judicial Elec	tion Campaign Code of Ethics.
	Candidate
	Date
	Campaign Manager

Date

I am committed to a fair and open public debate and will conduct my campaign for

# SAN DIEGO COUNTY BAR ASSOCIATION JUDICIAL ELECTION EVALUATION COMMITTEE CONFIDENTIAL PERSONAL DATA QUESTIONNAIRE

Please answer each question fully on letter size paper, single-spaced except between paragraphs. Identify answers by question number. If you are now a judge, please answer questions, where appropriate, as of the period before you became a judge.

- 1. Please state your full name, office and home addresses, and telephone numbers. If you have used another name, please include it and the date of name change.
- 2. Please state the date and place of your birth.
- 3. If you have had military service, please indicate the periods, branch of service, and type of discharge received.
- 4. List each college and law school attended, dates of attendance and degree awarded. If no degree was awarded, please state your reason for leaving.
- 5. List all jurisdictions to which you have been admitted to practice, with year of admission.
- 6. Please describe chronologically, for the last ten years, your law practice and experience. Include dates, names, and addresses of all law firms, offices, associations, sole practice, companies, governmental agencies, etc. by which you have been employed or with which you have been associated. Please include the name of your closest superior, supervisor or associate, if any.
- 7. Describe the general character of your law practice. If it has changed over the years, so indicate, and give the periods involved. Describe your typical client in each period. Mention areas of specialization.
- 8. What is the frequency of your court appearances and has it changed over the years. If the frequency has changed over the years, describe by the period involved, with dates.
- 9. Describe your court room and arbitration hearing experience, including the number of jury trials, number of non-jury trials, including all civil, criminal and administrative proceedings.
- 10. (Attorneys:) Please give the names of 10 judicial officers, including administrative officers, before whom you have appeared in California within the past five years. Please name San Diego County judicial officers if possible.
- 11. (Attorneys:) Please give the names, addresses, and telephone numbers of 20 attorneys, if possible, (opposing counsel preferred) with whom you have handled cases within the past five years. Please name San Diego County attorneys if possible.
- 12. (Judges:) Please give the names of 20 attorneys who have appeared before you, preferably for trials, within the past five years. Please name San Diego County attorneys if possible.

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- 13. Do you now hold or have you ever held a judicial or other public office? If so, please give dates and details.
- 14. Have you ever been charged with or convicted of a violation of any federal, state, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations for which a fine of \$75 or less was imposed.
- 15. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? If so, please give particulars.
- 16. Have you ever been a party to any legal proceedings (including divorce proceedings, arbitration proceedings, and suits by or involving any clients)? If so, please give details. Do not list proceedings in which you were merely the guardian ad litem or stakeholder. Include legal proceedings in which you were a party in interest, were named as coconspirator or corespondent, and any grand jury investigation in which you figured as a subject.
- 17. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, the State Bar, or other professional group? If so, please give the details.
- 18. Do you suffer from any mental, emotional or physical problems which would impact your ability to sit daily as the judge in a trial court?
- 19. Have you published any legal books or articles? If so, please list them giving the citations and dates.
- 20. Have you taught, lectured or participated as a panelist on legal subjects? If so, please list the sponsoring organizations, subject matters, and dates.
- 21. Have you maintained your MCLE requirements? If "No", please explain.
- 22. List all clubs and organizations not previously listed of which you are now a member or have been within the last five years.
- 23. Describe any aspects of your personal, business, or professional life which you believe reflect positively or adversely on you, or which you would like to disclose to the committee as part of your evaluation for judicial of office.

### SAN DIEGO COUNTY BAR ASSOCIATION JUDICIAL ELECTION EVALUATION COMMITTEE CONFIDENTIAL QUESTIONNAIRE

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Name:	Judge Attorney	Other Private Practice
Telephone Number:	Superior	District Attorney
Trainbon.	Appellate	Other Public Office
Signature:	Federal	
Address::City, State, Zip Code:		

YOU MAY COMPLETE THIS QUESTIONNAIRE AND RETURN TO:
JUDICIAL ELECTION EVALUATION COMMITTEE
1333 SEVENTH AVENUE, SAN DIEGO, CA 92101-4309
PLEASE MARK THE ENVELOPE CONFIDENTIAL
OR YOU CAN COMPLETE THE DOCUMENT ONLINE AT WWW.SDCBA.ORG
TO COMMENT ON MORE THAN ONE CANDIDATE, PLEASE MAKE
ADDITIONAL COPIES OF THIS FORM

## SAN DIEGO COUNTY BAR ASSOCIATION JUDICIAL ELECTION EVALUATION COMMITTEE CONFIDENTIAL QUESTIONNAIRE

Candidate:	for	San Diego Superio	r Court	
Do you know candidate	e professionally?	Socially? By	reputation only?	<u>.</u>
Explain briefly for how long and	d how well you know the	candidate:		
2. YOUR EXPERIENCE:	Have You: Worked with	ı candidateO	pposed in court?	
Had any opportunity to evaluate	e professional work?			
If candidate is a judicial officer	have you appeared befo	ore him/her?		
3. YOUR SPECIFIC RAT	INGS OF THE CANDID	ATE'S ABILITIES A	ND CHARACTERIST	ICS:
	Exceptional	Satisfactory	Unsatisfactory	Unknown
Judicial temperament Intellect and ability Knowledge of the Law	<u></u>			
Trial Experience Professional reputation Industry and work habits				
Decisiveness Fairness and objectivity Courtesy and patience				
Humor and perspective Judgment and common sense Compassion and understanding				
Integrity and honesty Administrative ability Community respect				
Physical and mental health Courage Writing and research skills				

## SAN DIEGO COUNTY BAR ASSOCIATION JUDICIAL ELECTION EVALUATION COMMITTEE CONFIDENTIAL QUESTIONNAIRE

YOUR OVERALI	.RATING: PLEASE C	IRCLE ONE			
1	VELL QUALIFIED	QUALIFIED	LACKING QUALIFIC	ATION	
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"Lacking Qualific	ation," the candidate r	nust lack some	of all or the qualities	of professional ability e judicial function in a s	xpe atis
Please list those	attributes of special not	te in supporting	our ratings:		
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# Judicial Election Evaluation Committee

Scheherazade S. Bahrambeygui

Meredith L. Brown

Joel R. Bryant

Thomas M. Buchenau

**Dave Carothers** 

Michael L. Crowley

Lilia E. Garcia

Robert S. Gerber

Alvin M. Gomez, Chair

Charles R. Grebing

Hector M. Jimenez

David J. Karlin

Marguerite Lieu Jonak

William A. Miller

Wayne L. Peterson

Regina A. Petty

Timothy C. Perry

Gary W. Schons

Maria C. Severson

Gregory A. Vega

Gretchen C. VonHelms